

VETERANS SMALL BUSINESS AND MEMORIAL AFFAIRS  
ACT OF 2006

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JULY 24, 2006.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. BUYER, from the Committee on Veterans' Affairs,  
submitted the following

R E P O R T

[To accompany H.R. 3082]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3082) to amend title 38, United States Code, to require that 9 percent of procurement contracts entered into by the Department of Veterans Affairs be awarded to small business concerns owned by veterans, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans Small Business and Memorial Affairs Act of 2006”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—SMALL BUSINESS**

Sec. 101. Department of Veterans Affairs goals for participation by small businesses owned and controlled by veterans in procurement contracts.

Sec. 102. Department of Veterans Affairs contracting priority for veteran-owned small businesses.

Sec. 103. Effective date.

**TITLE II—MEMORIAL AFFAIRS**

Sec. 201. Eligibility of Indian tribal organizations for grants for the establishment of veterans cemeteries on trust lands.

Sec. 202. Repeal of expiration and expanded application of Department of Veterans Affairs benefit for Government markers or headstones for marked graves of veterans buried in private cemeteries.

Sec. 203. Provision of Government memorial headstones or markers and memorial inscriptions for deceased dependent children of veterans whose remains are unavailable for burial.

**TITLE III—VETERANS' EMPLOYMENT AND TRAINING**

Sec. 301. Professional qualifications for disabled veterans' outreach program specialists and local veterans' employment representatives.

- Sec. 302. Rules for part-time employment for disabled veterans' outreach program specialists and local veterans' employment representatives.
- Sec. 303. State licensing and certification programs for veterans.
- Sec. 304. Training of new disabled veterans' outreach program specialists and local veterans' employment representatives by NVTI required.
- Sec. 305. Matters for inclusion in annual report on VETS program.
- Sec. 306. Demonstration project on contracting for placement of certain disabled veterans.
- Sec. 307. Performance incentive awards for employment service offices.
- Sec. 308. Department of Labor implementation of priority of service for veterans requirement.
- Sec. 309. Demonstration project on credentialing and licensure of veterans.

#### TITLE IV—EDUCATION

- Sec. 401. Exception for institutions offering Government-sponsored nonaccredited courses to requirement of refunding unused tuition.
- Sec. 402. Extension of work-study allowance.
- Sec. 403. Report on improvement in administration of educational assistance benefits.
- Sec. 404. Restoration of lost entitlement for individuals who had to discontinue a course of education because of being ordered to full-time National Guard duty.
- Sec. 405. Technical amendments.

## TITLE I—SMALL BUSINESS

### SEC. 101. DEPARTMENT OF VETERANS AFFAIRS GOALS FOR PARTICIPATION BY SMALL BUSINESSES OWNED AND CONTROLLED BY VETERANS IN PROCUREMENT CONTRACTS.

(a) IN GENERAL.—Subchapter II of chapter 81 of title 38, United States Code, is amended by adding at the end the following new section:

#### **“§ 8127. Small business concerns owned and controlled by veterans; Department contracting goals and preferences**

“(a) CONTRACTING GOALS.—(1) In order to increase contracting opportunities for small business concerns owned and controlled by veterans and small business concerns owned and controlled by veterans with service-connected disabilities, the Secretary shall—

“(A) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans who are not veterans with service-connected disabilities in accordance with paragraph (2); and

“(B) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans with service-connected disabilities in accordance with paragraph (3).

“(2) The goal for a fiscal year for participation under paragraph (1)(A) shall be determined by the Secretary.

“(3) The goal for a fiscal year for participation under paragraph (1)(B) shall be not less than the Government-wide goal for that fiscal year for participation by small business concerns owned and controlled by veterans with service-connected disabilities under section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)).

“(4) The annual performance review of the senior official of each Administration of the Department and each Assistant Secretary of the Department with procurement authority shall include an assessment of whether or not that official or Assistant Secretary met the contracting goals established pursuant to this subsection during the year for which the performance review is conducted with respect to contracts awarded during that year for which that official or Assistant Secretary had responsibility. If the official or Assistant Secretary is found not to have met such contracting goals, the official or Assistant Secretary shall not receive an award known as a performance award or an award known as a presidential rank award for that year.

“(5) In the case of a subcontract of a Department contract that is counted for purposes of meeting a goal established pursuant to this section, the Secretary shall conduct a review of the contract and subcontract to verify that the subcontract was actually awarded to a business concern that may be counted for purposes of meeting that goal.

“(6) The Secretary shall maintain a list based on the reviews conducted under paragraph (5) that contains the name of the contractor associated with each contract reviewed under that paragraph and whether each subcontract awarded by the contractor that is counted for purposes of meeting a goal established pursuant to this section was actually awarded to and performed by a business concern that may be counted for purposes of meeting that goal. The Secretary shall make such list publicly available.

“(b) USE OF NONCOMPETITIVE PROCEDURES FOR CERTAIN SMALL CONTRACTS.—For purposes of meeting the goals under subsection (a), and in accordance with this section, in entering into a contract with a small business concern owned and controlled

by veterans for an amount less than the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), a contracting officer of the Department may use procedures other than competitive procedures.

“(c) **SOLE SOURCE CONTRACTS FOR CONTRACTS ABOVE SIMPLIFIED ACQUISITION THRESHOLD.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department may award a contract to a small business concern owned and controlled by veterans using procedures other than competitive procedures if—

“(1) such concern is determined to be a responsible source with respect to performance of such contract opportunity;

“(2) the anticipated award price of the contract (including options) will exceed the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) but will not exceed \$5,000,000; and

“(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

“(d) **USE OF RESTRICTED COMPETITION.**—Except as provided in subsections (b) and (c), for purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department shall award contracts on the basis of competition restricted to small business concerns owned and controlled by veterans if the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by veterans will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States.

“(e) **ELIGIBILITY OF SMALL BUSINESS CONCERNS.**—A small business concern may be awarded a contract under this section only if the small business concern and the veteran owner of the small business concern are listed in the database of veteran-owned businesses maintained by the Secretary under subsection (f).

“(f) **DATABASE OF VETERAN-OWNED BUSINESSES.**—(1) Subject to paragraphs (2) through (6), the Secretary shall maintain a database of small business concerns owned and controlled by veterans and the veteran owners of such business concerns.

“(2) To be eligible for inclusion in the database, such a veteran shall submit to the Secretary such information as the Secretary may require with respect to the small business concern or the veteran.

“(3) Information maintained in the database shall be submitted on a voluntary basis by such veterans.

“(4) In maintaining the database, the Secretary shall carry out at least the following two verification functions:

“(A) Verification that each small business concern listed in the database is owned and controlled by veterans.

“(B) In the case of a veteran who indicates a service-connected disability, verification of the service-disabled status of such veteran.

“(5) The Secretary shall make the database available to all Federal departments and agencies and notify each such department and agency of the availability of the database.

“(6) If the Secretary determines that the public dissemination of certain types of information maintained in the database is inappropriate, the Secretary shall take such steps as are necessary to maintain such types of information in a secure and confidential manner.

“(g) **ENFORCEMENT PENALTIES FOR MISREPRESENTATION.**—Any small business concern that is determined by the Secretary to have misrepresented the status of that concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans for purposes of this subsection shall be debarred from contracting with the Department for a period of five years.

“(h) **TREATMENT OF BUSINESSES AFTER DEATH OF VETERAN-OWNER.**—(1) If the death of a veteran causes a small business concern to be less than 51 percent owned by one or more veterans, the surviving spouse of such veteran who acquires ownership rights in such small business concern shall, for the period described in paragraph (2), be treated as if the surviving spouse were that veteran for the purpose of maintaining the status of the small business concern as a small business concern owned and controlled by veterans.

“(2) The period referred to in paragraph (1) is the period beginning on the date on which the veteran dies and ending on the earliest of the following dates:

“(A) The date on which the surviving spouse remarries.

“(B) The date on which the surviving spouse relinquishes an ownership interest in the small business concern.

“(C) The date that is ten years after the date of the veteran’s death.

“(3) The death of a veteran-owner of a small business concern or a surviving spouse of such a veteran-owner who acquires ownership rights in such concern shall not be cause for termination of a contract awarded under this section that is in effect at the time of death of such owner or surviving spouse.

“(i) CHANGE IN OWNERSHIP OR CONTROL.—(1) Except as provided in subsection (h), if a small business concern that is awarded a contract under this section undergoes a change in management or control during the period for which the contract is in effect such that it is no longer a small business concern owned and controlled by veterans, the Secretary shall end the contract on the date on which the performance of the term of the contract is complete.

“(2) Such a contract that contains an option or options to extend the contract may be extended for a total of not more than 1 year pursuant to any such option.

“(j) PRIORITY FOR CONTRACTING PREFERENCES.—Preferences for awarding contracts to small business concerns shall be applied in the following order of priority:

“(1) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans with service-connected disabilities.

“(2) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans that are not covered by subparagraph (A).

“(3) Contracts awarded pursuant to—

“(A) section 8(a) of the Small Business Act (15 U.S.C. 637(a)); or

“(B) section 31 of such Act (15 U.S.C. 657a).

“(4) Contracts awarded pursuant to any other small business contracting preference.

“(k) QUARTERLY REPORTS.—Not later than 60 days after the last day of a fiscal quarter, the Secretary shall submit to Congress a report on small business contracting during that fiscal quarter, which shall include the following:

“(1) The percentage of the total amount of all contracts awarded by the Department during that fiscal quarter that were awarded to small business concerns owned and controlled by veterans.

“(2) The percentage of the total amount of all such contracts awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

“(3) The percentage of the total amount of all contracts awarded by each Administration of the Department during that fiscal quarter that were awarded to small business concerns owned and controlled by veterans.

“(4) The percentage of the total amount of all contracts awarded by each such Administration during that fiscal quarter that were awarded to small business concerns owned and controlled by veterans.

“(l) DEFINITIONS.—In this section:

“(1) The term ‘small business concern’ has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

“(2) The term ‘small business concern owned and controlled by veterans’ means a small business concern—

“(A)(i) not less than 51 percent of which is owned by one or more veterans or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

“(ii) the management and daily business operations of which are controlled by one or more veterans; or

“(B) not less than 51 percent of which is owned by one or more veterans with service-connected disabilities that are permanent and total who are unable to manage the daily business operations of such concern or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more such veterans.”.

(b) TRANSITION RULE.—A small business concern that is listed in any small business database maintained by the Secretary of Veterans Affairs on the date of the enactment of this Act shall be presumed to be eligible for inclusion in the database under subsection (f) of section 8127 of title 38, United States Code, as added by subsection (a), during the period beginning on the date of the enactment of this Act and ending one year after the date of the enactment of this Act. Such a small business concern may be removed from the database during that period if it is found not to be a small business concern owned and controlled by veterans (as defined in subsection (l) of such section).

(c) COMPTROLLER GENERAL REPORT AND STUDY.—(1) During the first three fiscal years for which this section is in effect, the Comptroller General shall conduct a study on the efforts made by the Secretary of Veterans Affairs to meet the contracting goals established pursuant to section 8127 of title 38, United States Code, as added by subsection (a).

(2) On January 31 of each year during which the Comptroller General conducts the study under paragraph (1), the Comptroller General shall submit to Congress an interim report on such study, placing special emphasis on any structural or organizational issues within the Department of Veterans Affairs that might act as an impediment to reaching such contracting goals.

(3) Not later than 90 days after the end of the three-year period during which the Comptroller General conducts the study under paragraph (1), the Comptroller General shall submit to Congress a report on the findings of such study.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8126 the following new item:

“8127. Small business concerns owned and controlled by veterans; Department contracting goals and preferences.”.

**SEC. 102. DEPARTMENT OF VETERANS AFFAIRS CONTRACTING PRIORITY FOR VETERAN-OWNED SMALL BUSINESSES.**

(a) PRIORITY FOR VETERAN-OWNED SMALL BUSINESSES.—Subchapter II of chapter 81 of title 38, United States Code, as amended by section 101(a), is further amended by adding at the end the following new section:

**“§ 8128. Contracting priority for small business concerns owned and controlled by veterans**

“(a) IN GENERAL.—In procuring goods and services pursuant to a contracting preference under this title or any other provision of law, the Secretary shall give priority to a small business concern owned and controlled by veterans, if such business concern also meets the requirements of that contracting preference.

“(b) DEFINITION.—The term ‘small business concern owned and controlled by veterans’ means a small business concern that is on the list maintained by the Secretary under section 8127(f) of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 101, is further amended by inserting after the item relating to section 8127 the following new item:

“8128. Contracting priority for small business concerns owned and controlled by veterans.”.

**SEC. 103. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on the date that is 180 days after the date of the enactment of this Act.

## **TITLE II—MEMORIAL AFFAIRS**

**SEC. 201. ELIGIBILITY OF INDIAN TRIBAL ORGANIZATIONS FOR GRANTS FOR THE ESTABLISHMENT OF VETERANS CEMETERIES ON TRUST LANDS.**

Section 2408 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(f)(1) The Secretary may make grants under this subsection to any tribal organization to assist the tribal organization in establishing, expanding, or improving veterans’ cemeteries on trust land owned by, or held in trust for, the tribal organization.

“(2) Grants under this subsection shall be made in the same manner, and under the same conditions, as grants to States are made under the preceding provisions of this section.

“(3) In this subsection:

“(A) The term ‘tribal organization’ has the meaning given that term in section 3765(4) of this title.

“(B) The term ‘trust land’ has the meaning given that term in section 3765(1) of this title.”.

**SEC. 202. REPEAL OF EXPIRATION AND EXPANDED APPLICATION OF DEPARTMENT OF VETERANS AFFAIRS BENEFIT FOR GOVERNMENT MARKERS OR HEADSTONES FOR MARKED GRAVES OF VETERANS BURIED IN PRIVATE CEMETERIES.**

(a) REPEAL OF EXPIRATION OF GOVERNMENT MARKER BENEFIT AND OBSOLETE PROVISION.—Section 2306(d) of title 38, United States Code, is amended by striking paragraphs (3) and (4).

(b) APPLICATION OF GOVERNMENT MARKER BENEFIT TO VETERANS DYING ON OR AFTER NOVEMBER 1, 1990.—Subsection (d) of section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 38 U.S.C. 2306 note) is amended by striking “September 11, 2001” and inserting “November 1, 1990”.

(c) PROVISION OF GOVERNMENT HEADSTONES.—

(1) **PROVISION OF HEADSTONES.**—Subsection (d) of section 2306 of title 38, United States Code, is amended—

(A) in paragraph (1)—

(i) in the first sentence, by inserting “headstone or” after “Government”; and

(ii) in the second sentence, by inserting “headstone or” before “marker” each place it appears; and

(B) in paragraph (2), by inserting “headstone or” before “marker”.

(2) **CONFORMING AMENDMENT.**—Subsection (g)(3) of such section is amended by inserting “headstone or” before “marker”.

(d) **PLACEMENT OF GOVERNMENT HEADSTONES OR MARKERS.**—Subsection (d)(1) of such section, as amended by subsection (c), is further amended by adding at the end the following new sentence: “If placing the Government headstone or marker on the grave for which it is requested is impossible or impracticable, a headstone or marker may be furnished if the individual making the request for the headstone or marker certifies to the Secretary that the headstone or marker will be placed within the grounds of the cemetery in which the grave for which the headstone or marker is requested and as close as possible or practicable to that grave.”.

(e) **DELIVERY OF GOVERNMENT HEADSTONES OR MARKERS.**—Subsection (d)(2) of such section, as amended by subsection (c), is further amended by inserting before the period at the end the following: “or to a receiving agent of that cemetery”.

(f) **SELECTION OF GOVERNMENT HEADSTONES AND MARKERS.**—Subsection (d) of such section, as amended by subsections (a), (c), (d), and (e), is further amended by adding at the end the following new paragraph (3):

“(3) The headstone or marker furnished under this subsection shall be the headstone or marker selected by the individual making the request for the headstone or marker from among all the headstones and markers made available by the Government and certified as acceptable for placement.”.

(g) **RETROACTIVE EFFECTIVE DATE.**—The amendments made by this section shall apply as if enacted in section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 38 U.S.C. 2306 note).

**SEC. 203. PROVISION OF GOVERNMENT MEMORIAL HEADSTONES OR MARKERS AND MEMORIAL INSCRIPTIONS FOR DECEASED DEPENDENT CHILDREN OF VETERANS WHOSE REMAINS ARE UNAVAILABLE FOR BURIAL.**

(a) **PROVISION OF MEMORIAL HEADSTONES OR MARKERS.**—Subsection (b) of section 2306 of title 38, United States Code, is amended—

(1) by adding at the end of paragraph (2) the following new subparagraph:

“(C) An eligible dependent child of a veteran.”; and

(2) by adding at the end of paragraph (4) the following new subparagraph:

“(C) For purposes of this section, the term ‘eligible dependent child’ means a child—

“(i) who is under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution; or

“(ii) who is unmarried and became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a course of instruction at an approved educational institution.”.

(b) **ADDITION OF MEMORIAL INSCRIPTION TO HEADSTONE OR MARKER OF VETERAN.**—Subsection (f) of such section is amended by inserting “or eligible dependent child” after “surviving spouse” both places it appears.

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply with respect to individuals dying after the date of the enactment of this Act.

## **TITLE III—VETERANS’ EMPLOYMENT AND TRAINING**

**SEC. 301. PROFESSIONAL QUALIFICATIONS FOR DISABLED VETERANS’ OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS’ EMPLOYMENT REPRESENTATIVES.**

(a) **ESTABLISHMENT OF GUIDELINES BY SECRETARY.**—Section 4107 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(d) The Secretary shall maintain guidelines for use by States in establishing the professional qualifications required under subclause (IV) of section 4102A(c)(2)(A)(i) of this title for determining the eligibility for employment, and eligibility for the continued employment, of State employees who are designated as disabled veterans’ outreach program specialists and local veterans’ employment representatives under this chapter.”.

(b) SUBMISSION OF ANNUAL PROFESSIONAL QUALIFICATIONS AS A CONDITION OF STATE RECEIPT OF FUNDS UNDER VETS PROGRAM.—Clause (i) of section 4102A(c)(2)(A) of such title is amended—

- (1) in subclause (II), by striking “and” at the end;
- (2) in subclause (III), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new subclauses:

“(IV) the professional qualifications used by the State for determining the eligibility for employment, and eligibility for continued employment, of State employees who are designated as disabled veterans’ outreach program specialists and local veterans’ employment representatives under this chapter; and

“(V) the training required or provided by the State for State employees who are designated as disabled veterans’ outreach program specialists and local veterans’ employment representatives under this chapter.”.

(c) DEADLINE FOR ESTABLISHMENT OF QUALIFICATIONS.—The Secretary of Labor shall establish the guidelines for professional qualifications required by sections 4107(d) of title 38, United States Code, as added by subsection (a), not later than the date that is 180 days after the date of the enactment of this Act.

(d) TECHNICAL AMENDMENTS.—

(1) AMENDMENTS.—Section 4102A of such title, as amended by subsection (b), is further amended—

(A) in subsection (c)—

- (i) by striking clause (ii) of paragraph (2)(B) and redesignating clause (iii) as clause (ii); and
- (ii) in paragraph (6)—

(I) by inserting “(29 U.S.C. 2801 et seq.)” after “the Workforce Investment Act of 1998”; and

(II) by inserting “(29 U.S.C. 49 et seq.)” after “the Wagner-Peyser Act”; and

(B) in subsection (f)—

- (i) in paragraph (1), by striking “establish and”; and
- (ii) by striking the heading and inserting the following: “PERFORMANCE STANDARDS AND OUTCOMES MEASURES.—”.

(2) EFFECTIVE DATE.—The amendment made by clause (i) of paragraph (1)(A) shall take effect on October 1, 2006.

**SEC. 302. RULES FOR PART-TIME EMPLOYMENT FOR DISABLED VETERANS’ OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS’ EMPLOYMENT REPRESENTATIVES.**

(a) DISABLED VETERANS’ OUTREACH PROGRAM SPECIALISTS.—Section 4103A of title 38, United States Code, is amended by adding at the end the following new subsection:

“(c) PART-TIME EMPLOYEES.—A part-time disabled veterans’ outreach program specialist shall perform the functions of a disabled veterans’ outreach program specialist under this section on a half-time basis.”.

(b) LOCAL VETERANS’ EMPLOYMENT REPRESENTATIVES.—Section 4104 of such title is amended by adding at the end the following new subsection:

“(e) PART-TIME EMPLOYEES.—A part-time local veterans’ employment representative shall perform the functions of a local veterans’ employment representative under this section on a half-time basis.”.

(c) EFFECTIVE DATE.—Sections 4103A(c) and 4104(e) of title 38, United States Code, as added by subsections (a) and (b), shall apply with respect to pay periods beginning after the date that is 180 days after the date of the enactment of this Act.

**SEC. 303. STATE LICENSING AND CERTIFICATION PROGRAMS FOR VETERANS.**

(a) REQUIREMENT AS A CONDITION OF VETS FUNDING.—Section 4102A(c) of title 38, United States Code, as amended by section 301, is further amended by adding at the end the following new paragraph:

“(8) As a condition of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall require the State to provide a licensing and certification program under which a veteran may receive credit toward a license or certification based on training or experience the veteran acquired while serving in the Armed Forces.”.

(b) EFFECTIVE DATE.—Section 4102A(c)(8) of title 38, United States Code, as added by subsection (a), shall apply to a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of such title beginning with the second program year beginning after the date of the enactment of this Act.

**SEC. 304. TRAINING OF NEW DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES BY NVTI REQUIRED.**

(a) **TRAINING REQUIRED.**—Section 4102A(c) of title 38, United States Code, is further amended by adding after paragraph (8), as added by section 303, the following new paragraph:

“(9)(A) As a condition of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall require the State to require each employee hired by the State who is designated as disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter to satisfactorily complete training provided by the National Veterans' Employment and Training Services Institute during the three-year period that begins on the date on which the employee is so designated.

“(B) For any employee described in subparagraph (A) who does not complete such training during such period, the Secretary may reduce by an appropriate amount the amount made available to the State employing that employee.”.

(b) **SUBMISSION OF EMPLOYEE TRAINING INFORMATION REQUIRED.**—Section 4102A(c)(2)(A) of such title is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause (iii):

“(iii) For each employee of the State who is designated as disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter—

“(I) the date on which the employee is so designated; and

“(II) whether the employee has satisfactorily completed training provided by the National Veterans' Employment and Training Services Institute.”.

(c) **APPLICABILITY.**—

(1) **APPLICABILITY TO NEW EMPLOYEES.**—Paragraph (9) of section 4102A(c) of such title, as added by subsection (a), and clause (iii) of section 4102A(c)(2)(A) of such title, as added by subsection (b), shall apply with respect to a State employee designated as a disabled veterans' outreach program specialist or a local veterans' employment representative under chapter 41 of such title who is so designated after the date of the enactment of this Act.

(2) **APPLICABILITY TO CERTAIN EMPLOYEES HIRED BEFORE DATE OF ENACTMENT.**—The Secretary of Labor shall apply such paragraph to a State employee designated as a disabled veterans' outreach program specialist or a local veterans' employment representative under chapter 41 of such title who was so designated during the five-year period before the date of the enactment of this Act by substituting “during the period beginning on the date on which the employee is so designated and ending on the date that is five years after the date of the enactment of the Veterans Small Business and Memorial Affairs Act of 2006” for “during the three-year period that begins on the date on which the employee is so designated”.

**SEC. 305. MATTERS FOR INCLUSION IN ANNUAL REPORT ON VETS PROGRAM.**

Section 4107(c) of title 38, United States Code, is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (10) through (13), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

“(3) the number of veterans, disabled veterans, and special disabled veterans who requested training from the public employment service system;

“(4) the total number of eligible veterans participating in each program for the provision of employment and training services designed to meet the needs of eligible veterans and eligible persons and the number of such veterans as a percentage of the total number of participants in each such program;

“(5) for each State, the percentage of persons seeking employment in the State who are veterans;

“(6) for each State, the number of veterans referred to a small business development center in that State and the number of veterans referred to the National Veterans Business Development Corporation established under section 33 of the Small Business Act (15 U.S.C. 657c);

“(7) the total number of such veterans and disabled veterans who remain employed for at least 90 days in such jobs;

“(8) the number of such veterans and disabled veterans who remain employed for at least 180 days in such jobs;

“(9) the average starting wage or salary paid to such veterans and disabled veterans and, if applicable, the average wage or salary paid to such veterans and disabled veterans as of the 180th day of employment;”.



**SEC. 306. DEMONSTRATION PROJECT ON CONTRACTING FOR PLACEMENT OF CERTAIN DISABLED VETERANS.**

(a) **DEMONSTRATION PROJECT.**—Section 4102A of title 38, United States Code, as amended by sections 301, 303, and 304, is further amended by adding at the end the following new subsection:

“(h) **DEMONSTRATION PROJECT ON CONTRACTING FOR PLACEMENT OF VETERANS IN HIGH-UNEMPLOYMENT AREAS.**—(1) From unobligated funds made available for a fiscal year to carry out sections 4103A and 4104 of this title, the Secretary of Labor, acting through the Assistant Secretary of Labor for Veterans’ Employment and Training, may enter into a contract with a nongovernmental entity to carry out job placement services for veterans during that fiscal year in a locality where the unemployment rate for veterans exceeds the national average unemployment rate.

“(2) In entering into a contract under paragraph (1), the Secretary of Labor may use procedures other than competitive procedures.

“(3) In entering into a contract under paragraph (1), the Secretary of Labor shall give priority to a small business concern owned and controlled by veterans that is listed in any small business database maintained by the Secretary of Veterans Affairs.

“(4) The total amount obligated under contracts entered into under paragraph (1) for any fiscal year may not exceed \$3,000,000.

“(5) The authority to enter into a contract under this subsection shall terminate on the date that is five years after the date of the enactment of the Veterans Small Business and Memorial Affairs Act of 2006.”.

(b) **GAO REPORT.**—Not later than four years after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the demonstration project under subsection (h) of section 4102A of title 38, United States Code, as added by subsection (a).

**SEC. 307. PERFORMANCE INCENTIVE AWARDS FOR EMPLOYMENT SERVICE OFFICES.**

(a) **PROVISION OF INCENTIVES TO EMPLOYMENT SERVICE OFFICES.**—Section 4112 of title 38, United States Code, is amended—

(1) in subsection (a)(1)(B), by inserting “and employment service offices” after “recognize eligible employees”;

(2) in subsection (c)—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2)—

(i) by striking “is” and inserting “in the case of such an award made to an eligible employee, shall be”; and

(ii) by striking the period at the end and inserting the following: “; and”;

(C) by adding at the end the following new paragraph:

“(3) in the case of such an award made to an employment service office, may be used by that employment service office for any purpose.”.

(b) **CONFORMING AMENDMENT.**—The heading for subsection (c) of such section is amended to read as follows: “ADMINISTRATION AND USE OF AWARDS.—”.

**SEC. 308. DEPARTMENT OF LABOR IMPLEMENTATION OF PRIORITY OF SERVICE FOR VETERANS REQUIREMENT.**

Not later than one year after the date of the enactment of this Act, the Secretary of Labor shall prescribe regulations to implement section 4215 of title 38, United States Code.

**SEC. 309. DEMONSTRATION PROJECT ON CREDENTIALING AND LICENSURE OF VETERANS.**

(a) **ESTABLISHMENT OF DEMONSTRATION PROJECT.**—Chapter 41 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 4114. Demonstration project on credentialing and licensure of veterans**

“(a) **ESTABLISHMENT AND PURPOSE OF DEMONSTRATION PROJECT.**—The Assistant Secretary for Veterans’ Employment and Training shall carry out a demonstration project on credentialing in accordance with this section for the purpose of facilitating the seamless transition of members of the Armed Forces from service on active duty to civilian employment.

“(b) **CREDENTIALING AND LICENSURE OF VETERANS.**—(1) The Assistant Secretary shall select not less than ten military occupational specialties for purposes of the demonstration project. Each such speciality selected by the Assistant Secretary shall require a skill or set of skills that is required for civilian employment in an industry with high growth or high worker demand.

“(2) The Assistant Secretary shall consult with appropriate Federal, State, and industry officials to identify requirements for credentials, certifications, and licenses

that require a skill or set of skills required by a military occupational specialty identified under paragraph (1).

“(3) The Assistant Secretary shall analyze the requirements identified under paragraph (2) to determine which requirements may be satisfied by the skills, training, or experience acquired by members of the Armed Forces with the military occupational specialties selected under paragraph (1).

“(c) ELIMINATION OF BARRIERS TO CREDENTIALING AND LICENSURE.—The Assistant Secretary shall cooperate with appropriate Federal, State, and industry officials to reduce or eliminate any barriers to providing a credential, certification, or license to a veteran who acquired any skill, training, or experience while serving as a member of the Armed Forces with a military occupational specialty selected under subsection (b)(1) that satisfies the Federal and State requirements for the credential, certification, or license.

“(d) TASK FORCE.—The Assistant Secretary may establish a task force of individuals with appropriate expertise to provide assistance to the Assistant Secretary in carrying out this section.

“(e) CONSULTATION.—In carrying out this section, the Assistant Secretary shall consult with the Secretary of Defense, the Secretary of Veterans Affairs, appropriate Federal and State officials, private-sector employers, labor organizations, and industry trade associations.

“(f) CONTRACT AUTHORITY.—For purposes of carrying out any part of the demonstration project under this section, the Assistant Secretary may enter into a contract with a public or private entity with appropriate expertise.

“(g) PERIOD OF PROJECT.—The Assistant Secretary shall carry out the demonstration project under this section during the period beginning on the date that is 60 days after the date of the enactment of this section and ending on September 30, 2009.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Assistant Secretary to carry out this section \$1,000,000 for each of fiscal years 2007 through 2009.”.

(b) MEMBERSHIP OF ADVISORY COMMITTEE ON VETERANS EMPLOYMENT, TRAINING, AND EMPLOYER OUTREACH.—Section 4110(c)(1)(A) of such title is amended—

- (1) by striking “Six” and inserting “Seven”; and
- (2) by adding at the end the following new clause:

“(vii) The National Governors Association.”.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 of such title is amended by adding at the end the following new item:

“4114. Demonstration project on credentialing and licensure of veterans.”.

## TITLE IV—EDUCATION

### SEC. 401. EXCEPTION FOR INSTITUTIONS OFFERING GOVERNMENT-SPONSORED NONACCREDITED COURSES TO REQUIREMENT OF REFUNDING UNUSED TUITION.

Section 3676(c)(13) of title 38, United States Code, is amended by striking “prior to completion” and all that follows and inserting the following: “before completion and—

“(A) in the case of an institution other than (i) a Federal, State, or local Government institution or (ii) an institution described in subparagraph (B), such policy provides that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length; and

“(B) in the case of an institution that is a nonaccredited public educational institution, the institution has and maintains a refund policy regarding the unused portion of tuition, fees, and other charges that is substantially the same as the refund policy followed by accredited public educational institutions located within the same State as such institution.”.

### SEC. 402. EXTENSION OF WORK-STUDY ALLOWANCE.

Section 3485(a)(4) of title 38, United States Code, is amended by striking “December 27, 2006” each place it appears and inserting “June 30, 2007”.

### SEC. 403. REPORT ON IMPROVEMENT IN ADMINISTRATION OF EDUCATIONAL ASSISTANCE BENEFITS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report on the administration of education benefits under chapters 30, 31, 32, 34, 35, and 36 of title 38, United States

Code, and chapters 1606 and 1607 of title 10, United States Code, that proposes methods to streamline the processes and procedures of administering such benefits.

**SEC. 404. RESTORATION OF LOST ENTITLEMENT FOR INDIVIDUALS WHO HAD TO DISCONTINUE A COURSE OF EDUCATION BECAUSE OF BEING ORDERED TO FULL-TIME NATIONAL GUARD DUTY.**

(a) **RESTORATION OF ENTITLEMENT.**—Section 3511(a)(2)(B)(i) of title 38, United States Code, is amended by inserting after “title 10” the following: “or of being involuntarily ordered to full-time National Guard duty under section 502(f) of title 32”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to a payment of educational assistance allowance made after September 11, 2001.

**SEC. 405. TECHNICAL AMENDMENTS.**

Section 3485 of title 38, United States Code, is amended—

- (1) in subsection (a)(4)(E), by inserting “or 1607” after “chapter 1606”;
- (2) in subsection (b), by striking “chapter 106” and inserting “chapter 1606 or 1607”; and
- (3) in subsection (e)(1)—
  - (A) by striking “services of the kind described in clauses (A) through (E) of subsection (a)(1) of this section” and inserting “a qualifying work-study activity described in subsection (a)(4)”;
  - (B) by striking “chapter 106” and inserting “chapter 1606 or 1607”.

Amend the title so as to read:

A bill to amend title 38, United States Code, to make improvements to small business, memorial affairs, education, and employment programs for veterans, and for other purposes.

## INTRODUCTION

The reported bill reflects the Committee’s consideration of H.R. 601; H.R. 3082, as amended; H.R. 5038, as amended; and H.R. 5220, as amended.

On February 2, 2005, Honorable Tom Udall introduced H.R. 601, the Native American Veterans Cemetery Act of 2005, which would authorize the Secretary of Veterans Affairs to make grants to tribal organizations to assist them in establishing, expanding, or improving veterans’ cemeteries on trust lands.

On June 28, 2005, the Chairman and Ranking Member of the Subcommittee on Economic Opportunity, Honorable John Boozman and Honorable Stephanie Herseth, respectively, Honorable Michael Bilirakis, Honorable Terry Everett, and Honorable Dan Burton introduced H.R. 3082, the Veteran-Owned Small Business Promotion Act of 2005, which would improve the competitive status of small businesses owned by veterans and service-disabled veterans when competing for VA small business set-aside contracts.

On March 29, 2006, the Chairman and Ranking Member of the Subcommittee on Disability Assistance and Memorial Affairs, Honorable Jeff Miller and Honorable Shelley Berkley, respectively, introduced H.R. 5038, the Veterans’ Memorial Marker Act of 2006, which would extend, through December 31, 2007, the authority of the Secretary of Veterans Affairs to provide government markers for veterans interred in a marked grave at a private cemetery. The bill would also extend the program to veterans interred in a private cemetery and who died between November 1, 1990 and September 10, 2001. The bill would also authorize the Secretary of Veterans Affairs to provide a memorial marker in a national cemetery for dependent children who would be eligible for burial but whose remains are unavailable.

On April 6, 2006, the Subcommittee on Disability Assistance and Memorial Affairs held a hearing on seven bills, including H.R. 601 and H.R. 5038.

On April 27, 2006, the Subcommittee on Economic Opportunity held a hearing on five bills, including H.R. 3082, and draft legislation that would improve the competitive status of small businesses owned by veterans and service-disabled veterans when competing for VA contracts. The draft bill included provisions which would set procurement goals, establish incentive provisions, and continue veteran or service-disabled veteran status in cases where the veteran or service-disabled veteran-owner dies.

On April 27, 2006, Honorable Ginny Brown-Waite introduced H.R. 5220, the Veterans Licensing and Credentialing Act of 2006. H.R. 5220 would establish a program to promote licensing and certification of veterans pursuing occupations related to their military training and experience.

On May 10, 2006, the Subcommittee on Economic Opportunity met and ordered H.R. 3082, as amended, and H.R. 5220, as amended, reported favorably to the full Committee by unanimous voice vote.

On June 8, 2006, the Subcommittee on Disability Assistance and Memorial Affairs met and ordered H.R. 601 reported favorably to the full Committee by unanimous voice vote.

On July 12, 2006, the Subcommittee on Disability Assistance and Memorial Affairs met and ordered H.R. 5038, as amended, reported favorably to the full Committee by unanimous voice vote.

On July 13, 2006, the full Committee met and ordered H.R. 3082, as amended, reported favorably to the House by unanimous voice vote.

#### SUMMARY OF THE REPORTED BILL

H.R. 3082, as amended, would:

##### TITLE I—SMALL BUSINESS

1. Require the Secretary of Veterans Affairs (the Secretary) to establish annual contracting goals for the Department of Veterans Affairs (VA) to enter into with small businesses owned and controlled by veterans and service-disabled veterans. The goal for service-disabled, veteran-owned small businesses would not be less than three percent.

2. Require VA to maintain a database of small businesses owned by veterans and service-disabled veterans and require listing in this database as a condition of participation in VA procurement program.

3. Require VA to validate the veteran's disability status and ownership interest in any business listed in the database.

4. Provide veteran and service-disabled, veteran-owned small businesses priority in VA contracting as well as priority among other "set-aside" groups eligible for preferential treatment under the Small Business Act.

5. Clarify veteran small business competition rules for contracts worth less than \$5 million.

6. Authorize continued status as a veteran or service-disabled veteran-owned small business by a surviving spouse for a period of

10 years following the death of the veteran or service-disabled veteran owner.

7. Require annual performance reviews of senior VA procurement officials to include assessment of efforts to meet veteran contracting goals and prohibit award of performance bonuses to those senior officials whose organizations within VA do not meet veteran or service-disabled veteran-owned business contracting goals.

8. Require VA to provide quarterly reports on small business contracting.

9. Require the Comptroller General to study, during the first 3 fiscal years, the efforts made by the Secretary to meet contracting goals.

## TITLE II—MEMORIAL AFFAIRS

1. Authorize the Secretary to make grants to tribal governments under the State Cemetery Grants Program to assist them in establishing, expanding, or improving veterans' cemeteries on trust lands.

2. Make permanent the Secretary's authority to furnish a government headstone or marker for veterans interred in a marked grave at a private cemetery. The current authorization expires on December 31, 2006.

3. Expand the Secretary's authority to furnish a government headstone or marker for veterans who died between November 1, 1990, and September 10, 2001, and who are interred in a marked grave at a private cemetery.

4. Authorize the placement of a memorial marker in a national cemetery for dependent children who would be eligible for burial but whose remains are unavailable.

## TITLE III—VETERANS' EMPLOYMENT AND TRAINING

1. Require the U.S. Department of Labor's Veterans' Employment and Training Service (VETS) to establish non-mandatory professional qualification guidelines for Disabled Veterans Outreach Program Specialists (DVOPS) and Local Veterans Employment Representatives (LVERs).

2. Require states to describe the qualifications and training for DVOPS and LVERs as part of the application for a state grant.

3. Clarify that part-time employment of DVOPS and LVERs is half-time employment.

4. Require states to develop a licensing and certification program within 2 years after date of enactment for veterans as a condition of receiving a grant from VETS.

5. Require that all DVOPS/LVERs hired after date of enactment successfully complete training by the National Veterans' Training Institute within three years of appointment.

6. Modify VETS' annual report to include additional and more specific data concerning veterans' employment.

7. Authorize a 5-year demonstration project to allow the Assistant Secretary of Labor for VETS to enter into contracts with non-governmental entities to carry out placement services in high unemployment areas using unobligated funds, and require the Government Accountability Office to report on this demonstration project.

8. Modify the incentive award program to recognize high-performing employment service offices in addition to high performing employees.

9. Require DOL to prescribe regulations with regard to priority of service established under the Jobs for Veterans Act, Public Law 107–288, no later than 1 year after date of enactment.

10. Establish a demonstration project that would:

a. authorize the Secretary of Labor to identify not fewer than 10 military occupational specialties that would lead to civilian credentialing within an industry that has a critical shortage of employees or that is a high-growth industry;

b. require the Secretary of Labor to work with states and industries to identify the civilian credentialing requirements within each state and industry to reduce the barriers for servicemembers seeking civilian employment;

c. require an annual report to Congress describing the efforts and results of the previous year toward credentialing services;

d. terminate authorization of the demonstration project on September 30, 2009; and

e. authorize appropriations of \$1,000,000 for each of the fiscal years 2007 through 2009.

11. Include a representative from the National Governors Association on the Secretary’s Advisory Committee on Veterans Employment, Training, and Employer Outreach of the Department of Labor.

#### TITLE IV—EDUCATION

1. Clarify that the pro-rata refund policy for non-accredited educational institutions does not apply to Federal, state or local government courses.

2. Extend authorization for work-study positions located at VA cemeteries, state veterans homes, and State Approving Agencies through June 30, 2007.

3. Require VA to report on methods to improve and streamline the administrative processes and procedures of education programs in chapters 30 through 36 of title 38, United States Code.

4. Restore lost entitlement for certain chapter 35 education beneficiaries who are survivors and dependents of veterans who are forced to discontinue a course of education due to being called to full-time National Guard duty.

#### BACKGROUND AND DISCUSSION

##### TITLE I—SMALL BUSINESS

Department of Veterans Affairs goals for participation by small businesses owned and controlled by veterans in procurement contracts.—Section 101 of the bill would improve the competitive status of small businesses owned by veterans and service-disabled veterans when competing for VA contracts. The Committee believes that qualified small businesses owned and operated by veterans and service-disabled veterans have earned the opportunity to compete for VA contracts, including small business set-aside contracts. Indeed, the Committee believes that small businesses owned and controlled by veterans and service-disabled veterans should rou-

tinely be granted the primary opportunity to enter into VA procurement contracts, and would encourage other federal agencies to provide such preferences to veteran and service-disabled veteran owned small businesses. The Committee expects that VA will implement section 101 in an effective and expeditious manner, and accordingly, demonstrate improvement in meeting the contracting goals established by Public Law 106–50.

Public Law 106–50 established a federal contracting goal of three percent for service-disabled veteran-owned small business concerns and improved access to capital and government procurement information for veterans and service-disabled veterans. To date, most federal agencies, including VA, have not met the three-percent contracting goal. While VA has demonstrated improvement in contracting with service-disabled veteran owned small businesses, the Committee believes the provisions of H.R. 3082 will provide the VA with the necessary procurement tools to meet, if not exceed, its contracting goals. Of course, strong leadership will also be needed from senior VA officials to effectively implement the provisions and continue to improve on VA's contracting efforts.

During a hearing held by the Committee on Veterans' Affairs on February 5, 2003, witnesses provided testimony concerning the federal government's failure to meet contracting goals. The reasons stated by the witnesses included the lack of emphasis on the goal by federal contracting officers and top managers; the discretionary, not mandatory, nature of the goals; the lack of real enforcement authority on the part of the Small Business Administration (SBA) and the lack of real contracting tools (such as set-asides or restricted contracts) to use in meeting the three-percent goal for service-disabled veteran-owned small businesses.

As a result of the hearing, Congress ultimately enacted certain provisions of H.R. 2297, the Veterans Benefits Act of 2003, which became Public Law 108–183, this enhanced the ability of federal agencies to contract with veterans and service-disabled veterans. Among other provisions, the law established contract set-aside "tools" for use by contracting officers to reach the three-percent goal. These tools included:

1. furnishing federal agencies discretionary authority to create sole-source contracts for service-disabled, veteran-owned small businesses—up to \$5 million for manufacturing contract awards and up to \$3 million for non-manufacturing contract awards; and
2. furnishing federal agencies discretionary authority to restrict certain contracts to service-disabled, veteran-owned small businesses if at least two such concerns are qualified to bid on the contract.

Following the enactment of Public Law 108–183, the Subcommittee on Economic Opportunity held several hearings, both on its own, and jointly with the Committee on Small Business, to review service-disabled veteran-owned small business procurement policies within the federal government. The Committee, while noticing improvement by certain federal agencies, remains frustrated with respect to the efforts of the majority of federal agencies to enter into contracts with service-disabled veteran-owned small businesses. Moreover, the Committee has received testimony from numerous witnesses describing what they perceive as a culture of indifference or ignorance by many procurement officials with re-

spect to the service-disabled veteran-owned small business provisions of Public Law 108–183. For example, total federal agency contracting with service-disabled small businesses amounted to only 0.605 percent in 2005.

The Committee expects VA to set the example among government agencies for procurement with veteran and service-disabled veteran-owned small businesses. The bill would provide new tools and procedures for VA contracting officers to enable them to do more business with veteran and service-disabled veteran entrepreneurs. Given this new set of acquisition tools, there should be no reason for VA not to meet the veteran and service-disabled veteran small business contracting goals. The Committee also expects the Department to make a significant effort to ensure that its contracting officers understand the new tools and utilize these tools effectively. Should the Department continue to fall short despite these additional tools, the Committee will consider further steps in order to achieve improvement in this area. The Committee believes that credit for subcontracts awarded by prime contractors to veteran and service-disabled veteran-owned businesses should qualify for meeting the goals established by the Secretary. However, contracts awarded to service-disabled veteran-owned businesses may not be counted towards meeting the goal set by the Secretary for non-service disabled veteran-owned businesses.

The Committee expects senior VA management to take a strong leadership role in the implementation and administration of the provision within H.R. 3082, as amended. The Committee believes that failure to meet current contracting goals is a failure of senior VA management. Therefore, this section includes provisions prohibiting the award of bonuses to senior Administration officials such as the several Under Secretaries and Assistant Secretaries whose Administration or organization fails to meet the goals established by the Secretary. The Committee believes that there is sufficient opportunity within all Administrations and organizations with procurement authority to meet the goals and expects the Secretary to aggressively monitor the Department's performance.

The Committee believes that the long-term interests of veteran and service-disabled veteran-owned small businesses are best served by maintaining competition whenever possible. This section provides contracting officers with the authority to issue sole-source contracts when appropriate under the limits set by the legislation. While the Committee encourages VA to use the sole-source option to the advantage of the Department, the Committee also believes that excessive use of sole-source contracts as a convenience to the contracting officer is not conducive to expanding the number of veteran-owned small businesses receiving contracts, may stifle competition, and may result in questionable awards. The Committee believes that veteran and service-disabled small business owners would have greater opportunities to obtain VA contracts in an environment that promotes, rather than stifles, competition while maintaining the integrity of the process.

The Center for Veterans Enterprise at VA currently maintains a database exclusively for veteran and service-disabled veteran-owned small businesses. However, at the present time, the veteran status of those businesses' owners and their ownership is not verified. The Committee strongly encourages the Department to



maintain such a database and to ensure that businesses listed within the database are verified veteran-owned small businesses. The bill would require VA to validate veteran and ownership status; however, the Committee is concerned that the process not create another backlog and directs the VA to use the most efficient and cost-effective method to accomplish the validations including contracting with an appropriate entity.

Department of Veterans Affairs contracting priority for veteran-owned small businesses.—Section 102 of the bill would establish priority of veteran and service-disabled veteran small businesses relative to other set-aside groups. In addition to providing veteran and service-disabled veteran-owned small businesses priority over all other set-aside groups such as, section 8(a), HUBZONE, and Women-owned small businesses as defined by the Small Business Act, the Committee intends that any veteran or service-disabled veteran-owned small business that also qualifies under another category be given priority within that category in VA procurement.

## TITLE II—MEMORIAL AFFAIRS

Eligibility of Indian tribal organizations for grants for the establishment of veterans cemeteries on trust lands.—Section 201 of the bill would authorize the Secretary of Veterans Affairs to make grants to tribal organizations to assist them in establishing, expanding, or improving veterans' cemeteries on trust lands.

The Department of Veterans Affairs' State Cemetery Grants Program (SCGP) was established in 1978 to complement VA's National Cemetery Administration. The program assists states with building or improving state veterans cemeteries. VA will pay for the construction costs; states are responsible for providing the land and ongoing operating and maintenance expenses of the cemeteries. There are currently 60 state cemeteries and two under construction; states are planning to open 18 new state veterans' cemeteries between 2007 and 2010. Due to the success of the State Cemetery Grants Program, Congress made the program permanent in Public Law 108–183. However, tribal governments are not considered eligible for state cemetery grants. Section 201 would provide Native American veterans the opportunity to be buried in a veterans cemetery located on trust land. As a condition of being awarded a grant under the SCGP, the tribal organization would be required to submit the necessary grant application and meet related requirements similar to any other state jurisdiction.

Repeal of expiration and expanded application of Department of Veterans Affairs benefit for government markers or headstones for marked graves of veterans buried in private cemeteries.—Section 202 of the bill would make permanent the authority of the Secretary of Veterans Affairs to furnish a marker or headstone for already-marked graves of veterans interred in private cemeteries. The current authorization expires on December 31, 2006. This section would also extend the program to include veterans who died between November 1, 1990 and September 10, 2001, and who are interred in a marked grave at a private cemetery.

Between November 1, 1990 and September 10, 2001, the authority to provide a headstone or marker at a private cemetery was limited to the unmarked graves of veterans, or to commemorate the grave of an eligible veteran whose remains were unavailable. If a

veteran's family had purchased a private marker, VA did not have the authority to furnish one from the government. Public Law 107-103 established a 5-year program requiring the Secretary to furnish a marker to those families who request a government marker for the marked grave of a veteran at a private cemetery who died on or after the date of the law's enactment, December 27, 2001. With Public Law 107-330, Congress made the provision retroactive to September 11, 2001. Based upon VA's review there was no significant increase in requests for additional grave markers with the passage of Public Law 107-330. VA supports extending the authority in order to contribute to its ability to provide veterans and their families with symbolic expressions of remembrance.

Provision of government memorial headstones or markers for deceased dependent children of veterans whose remains are unavailable for burial.—Section 203 of the bill would authorize the Secretary of Veterans Affairs to permit the placement of a memorial headstone or marker in a national cemetery when a child's remains are unavailable for burial. If feasible, VA would be authorized to add a memorial inscription to a veteran's headstone rather than providing a separate marker for the minor child.

Currently, VA may provide a memorial headstone or marker for a veteran, spouse, or surviving spouse when remains are unavailable. However, if a spouse and child die at the same time and in the same manner, and the remains for neither are available, a veteran cannot receive a memorial headstone honoring the child. This section would correct an inequity in current law. Since 2002, VA has received three such requests.

### TITLE III—VETERANS' EMPLOYMENT AND TRAINING

Professional qualifications for Service-Disabled Veterans' Outreach Program Specialists and Local Veterans' Employment Representatives.—Section 301 of the bill would set non-mandatory standards for hiring of Disabled Veterans Outreach Program Specialists (DVOPS) and Local Veterans Employment Representatives (LVERs), as well as training requirement and related veterans employment issues. The Department of Labor's Veterans' Employment and Training Service (VETS) annually provides over \$160 million in staffing grants to states to furnish employment services to veterans, usually through state workforce centers. These federal grants provided to states fund DVOPS and LVERs.

DVOPS and LVERs are usually employees of the state employment services and have qualifications and pay scales that can vary significantly. While data indicates no obvious correlation between salaries and performance in placing veterans in jobs, the Committee believes that as part of the overall goal of improving DVOPS and LVER performance nationally, it is time for VETS to provide states with recommended qualifications for employees who hold those positions.

Public Law 107-288 created greater flexibility for states in administering employment services to veterans. The Committee, however, is concerned with some states' performance and slow progress with respect to fully implementing the provisions of Public Law 107-288. Moreover, through site visits, Government Accountability Office reports, and oversight hearings the Committee has received compelling testimony describing numerous challenges to the vet-

erans' state grant program, including lack of data gathering and reporting systems, inability to provide incentive awards in certain states and high staff turnover with declining resources to provide training.

The Committee intends that this section will improve the state grant program for DVOPS and LVERs by setting suggested hiring and retention guidelines as requirements for grants, implementing a demonstration contract program in areas of high veteran unemployment, and revising the current incentive award program.

This section would require the Department of Labor, through VETS, to set guidelines for states for standards of initial hires as well as training requirements for those currently on the job. While the Committee considered requiring VETS to set mandatory qualifications, the Committee determined that doing so might be counter-productive at this time. However, the Committee expects VETS to strongly encourage and if needed assist the states to implement such workforce development modifications and upgrade their respective staff training and qualification standards.

Rules for part-time employment for Disabled Veterans' Outreach Program Specialists and Local Veterans' Employment Representatives.—Section 302 of the bill would clarify the hiring of part-time DVOPS and LVERs. Certain provisions of Public Law 107-288 allowed states to create part-time positions for DVOPS and LVERs. The intent of this provision was to create half-time employees to provide greater geographic distribution throughout states. However, some states have created positions that are less than half-time. The Committee believes that half-time employees are needed to effectively fulfill the objectives of the programs.

State licensing and certification programs for veterans.—Section 303 of the bill would require states to establish licensing and certification programs for veterans as a condition of receiving a grant under the VETS program. Many veterans receive extensive training and experience during their military service. The Committee believes that veterans who have received such training should be able to receive credit for such training when applying for a state license or certification after leaving military service.

Training of new Disabled Veterans' Outreach Program Specialists and Local Veterans' Employment Representatives by National Veterans' Training Institute required.—Section 304 of the bill would require states to ensure DVOPS and LVERs are properly trained to provide job placement services. The Committee believes that initial and refresher training is critical to providing quality job training services, especially for those performing as DVOPS. While it is less challenging to place job seekers, including veterans, in low skill/low wage jobs, understanding veterans' unique experiences and qualifications obtained during military service and matching veterans with training and job opportunities that provide upward mobility is more demanding. Such service requires a more sophisticated approach that can be facilitated by appropriate training at the National Veterans' Training Institute (NVTI). The Committee realizes that the provisions of this section will likely increase the training services provided by NVTI and the Committee expects the Department of Labor to request additional funding for NVTI in the Administration's budget. Section 304 would also allow VETS to withhold funding to states for any employee who has not completed

training at NVTI. The Committee expects that any funding withheld would be withheld in future grants, not recaptured from current year funding.

Matters for inclusion in annual report on VETS program.—Section 305 of the bill would add several detailed reporting requirements to measure the effectiveness of the DVOP and LVER program. This section requires VETS to provide additional data in its annual reports. Such data shall include information concerning employment status in 90 and 180 day increments, the percentage of veterans who are seeking employment in each state, and the number of veterans referred to small business assistance. This will enable VETS and Congress to measure the success of the DVOPS and LVER programs in meeting employment goals.

Demonstration project on contracting for placement of certain service-disabled veterans.—Section 306 of the bill would authorize VETS to contract with private entities for placement services using unobligated funds. One persistent complaint regarding the inconsistent performance of the DVOP and LVER programs is that the lack of competition does not encourage high quality performance. Authorizing VETS to contract with nongovernmental entities will create not only additional placement resources, but also incentives for state employment services to improve their operations.

Performance incentive awards for employment service offices.—Section 307 of the bill would expand the types of performance incentive awards available to state employment services. The Jobs for Veterans Act passed in 2002 (Public Law 107-288 enacted in 2002) authorized states to use up to one percent of the state grant to reward high-performing employees. The Committee has become aware that some state constitutions and collective bargaining agreements prohibit such awards. The Committee has long held that providing incentives awards are appropriate techniques to promote improved performance. Therefore, this section would authorize states to use the incentive money to reward not just individuals, but also offices whose performance exceeds the norm. In the case of awards to offices, the funds are not restricted in the type of use, but the Committee believes such use should reflect the performance of the entire office, not benefit one specific individual.

Department of Labor implementation of priority of service for veterans requirement.—Section 308 of the bill would require the Department of Labor to establish regulations governing the Jobs for Veterans Act (Public Law 107-288). Since its enactment in 2002, the Secretary of Labor has not promulgated regulations concerning priority of service for veterans within Department of Labor training programs. The Committee expects the Department of Labor to promulgate regulations no later than 1 year after the date of enactment to ensure veterans priority in all applicable Department of Labor programs.

Demonstration project on credentialing and licensure of veterans.—Section 309 of the bill would require the VETS to begin a program to promote credentialing and licensing of veterans in occupations related to their military training and experience. VETS would be required to identify a minimum of 10 military occupational specialties (MOS) to begin the program. Over 400 MOS have civilian counterparts; however, often former servicemembers are not able to obtain licenses or certification for the civilian equiva-

lents based on their military experience and training. This lack of recognition and credit for military service is not only frustrating and expensive for veterans seeking civilian employment, but it costs the nation in terms of duplicative training and lost time on-the-job. For example, the Army spends several thousand dollars to train the equivalent of a long-haul truck driver. The Navy spends over \$50,000 to train a medical corpsman roughly equivalent to an emergency medical technician. To require these individuals to repeat training already completed and ignore several years of experience is simply unwise. While states may require training and education beyond what is gained in military service to qualify for state licenses, servicemembers should be given appropriate credit for education, training, and experience gained in military service.

The Committee has found that many servicemembers who separate from the military and enter civilian life would prefer to seek employment in the civilian workforce that reflects generally the skills and experience they gained during their military service rather than seek a degree at a traditional post-secondary institution. To assist with the transition process toward civilian employment, this section would authorize VETS to conduct a pilot project to identify MOS-equivalent industries facing a critical shortage and high-growth industries. Once VETS identifies the MOS's, it must work with states and private industries to credit former servicemembers in certain MOS's for education, training, and experience to receive licensing and credentialing in those industries. At the conclusion of this study the Committee expects that states would have programs established that assist veterans in their efforts to receive proper civilian licenses and certifications based on their military service.

#### TITLE IV—EDUCATION

Exception for institutions offering Government-sponsored non-accredited courses to requirement of refunding unused tuition.—Section 401 of the bill would clarify the rules regarding refunds by educational institutions. The Committee is concerned about the complex and time-consuming claims process that has developed within the VA's Education Service due in part to legislation, certain administrative decisions, and outdated regulations. One issue in particular brought to the Committee's attention by the National Association of State Approving Agencies, is that valid education programs offered by government or quasi-government entities are denied approval based on the requirement that the institution have a pro-rata refund policy. A change in this policy would allow greater flexibility in approving programs that a veteran may obtain the skills and knowledge to enter into a profession or occupation.

Extension of work-study allowance.—Section 402 of the bill would extend several existing work-study options that expire on December 27, 2006. VA hires veteran-students under the work-study program in certain VA programs. Under Public Law 107-103, the Veterans Education and Benefits Expansion Act of 2001, opportunities for veteran-students to use their work-study funding were expanded to include positions at State Approving Agencies, state and national cemeteries, and state veterans homes. These options expire on December 27, 2006. Although the program has been successful, the Committee does not have funding available to con-

tinue this program on a permanent basis. So as not to cut off a work-study program for these veterans during a school year, section 402 would extend work-study options through June 30, 2007.

Report on improvement in administration of educational assistance benefits.—Section 403 of the bill would require VA to submit a report to Congress on ways to streamline the administration of VA education benefits. The Committee has concerns with regard to how VA administers its education programs. In testimony at a field hearing held in Rogers, Arkansas, Dr. Steve Kime, Vice President (retired) of the American Association of State Colleges and Universities, noted that VA regulations often treat veterans and education institutions as potential criminals. He also noted that these regulations reflected VA's experience following World War II when large numbers of veterans were thrust into an education system that had little oversight. Dr. Kime testified that today's education system is much more regulated and policed in terms of accreditation and accountability and it is time to revise VA regulations and processes to reflect that change. Therefore, section 403 would require the VA to review all administrative and policy procedures within the education programs to streamline the process and offer veterans more opportunities.

Restoration of lost entitlement for individuals who had to discontinue a course of education because of being ordered to full-time National Guard duty.—Section 404 of the bill would authorize VA to restore Chapter 35 education entitlements lost by surviving spouses and dependents due to being called to active duty. Reservists and National Guardsmen who are attending courses of study and using Chapter 30 benefits are able to have their entitlement restored if the course was involuntarily interrupted due to activation. Currently, reservists are not eligible to have their entitlement restored if they are receiving education benefits under Chapter 35 of title 38, United States Code, as the survivors or dependents of veterans. This section would extend restoration of entitlement to these National Guard and Reserve members as well.

#### SECTION-BY-SECTION ANALYSIS

Section 1 of the bill would provide that this Act may be cited as the "Veterans Small Business and Employment Promotion Act of 2006."

Section 101(a) of the bill would add a new subchapter 8127, "Small business concerns owned and controlled by veterans; Department contracting goals and preferences," to title 38, United States Code. The following sections would be added to chapter 81 of title 38, United States Code:

New subsection 8127(a) would require the Secretary to establish contracting and subcontracting goals for each fiscal year for small business contracts with small businesses owned and controlled by veterans and service-disabled veterans. This subsection would also require the performance appraisal of senior officials and Assistant Secretaries with procurement authority to include whether the annual contracting goals of their Administrations or organizations were met. Finally, this subsection would require VA to conduct reviews of contracts and subcontracts to verify that contracts and subcontracts were actually awarded to veterans' businesses as outlined in their contract or subcontract. This information would be

maintained in a list that the Secretary would make publicly available.

New subsection 8127(b) would allow VA to award non-competitive contracts to small businesses owned and controlled by veterans when the amount of the contract is below the simplified acquisition threshold as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. § 403).

New subsection 8127(c) would allow contracting officers to award sole source contracts to small businesses owned and controlled by veterans to meet the annual goal set by the Secretary for contracts above the simplified acquisition threshold but below \$5,000,000.

New subsection 8127(d) would allow contracting officers to restrict competition to small businesses owned and controlled by veterans if the contracting officer has an expectation that two or more businesses owned by veterans will submit offers for the contract.

New subsection 8127(e) would require small businesses owned and controlled by veterans to be listed in the database maintained by the Secretary in order to be awarded a contract under this new section.

New subsection 8127(f) would require the Secretary to maintain a database of small businesses owned and controlled by veterans. The Secretary would verify that each small business is owned and controlled by a veteran and in the case of a service-disabled veteran; the Secretary would verify the veteran's service-disabled status. The database would be made available to all Federal departments and agencies and certain types of information would also be available to the public.

New subsection 8127(g) would bar any small business that misrepresented itself to the Department as a small business owned and controlled by a veteran from contracting with the Department for a period of 5 years.

New subsection 8127(h) would continue to recognize a small business owned and controlled by a veteran as such after the death of the veteran if the surviving spouse of the veteran acquires ownership. This small business would be recognized as a veteran-owned or service-disabled veteran-owned small business until the earliest of the following: (a) the date on which the surviving spouse remarries; (b) the date the surviving spouse relinquishes ownership; or (c) 10 years after the date of the veteran's death.

New subsection 8127(i) would require the Secretary to end any contract on the date on which the performance of the term of the contract is complete if the ownership or control of the veteran-owned small business changes during the period of the contract. If the contract contains an option or options to extend the contract, such contract may not be extended for more than 1 year.

New subsection 8127(j) would give preference to small businesses owned and controlled by veterans relative to other set aside groups and within other set aside groups when another contracting preference category is being used.

New subsection 8127(k) would require the Secretary to provide quarterly reports to the Committees on Veterans Affairs that would include percentage of contracts awarded by the whole Department and each Administration of the Department to small businesses owned and controlled by veterans and service-disabled veterans.

New subsection 8127(l) would provide definitions for “small business concern” and “small business owned and controlled by veterans.”

Section 101(b) of the bill would provide a transition rule that would allow one year after date of enactment for the small businesses currently listed on the current database to be removed if found not to be a small business owned and controlled by a veteran.

Section 101(c) of the bill would require the Comptroller General to conduct a study on the efforts of the Secretary to meet the goals established in section 8127 for the first 3 fiscal years after date of enactment and report to Congress on January 31 of each of such year. Not later than 90 days after the end of the study the Comptroller General shall submit a report to Congress on the findings of the study.

Section 101(d) of the bill would amend the chapter heading to include the new section 8127.

Section 102 of the bill would create a new section 8128, “Contracting priority for small business concerns owned and controlled by veterans,” in title 38, United States Code. The new Subchapter would give priority to small businesses owned and controlled by veterans.

Section 103 of the bill would make sections 101 and 102 effective 180 days after the date of enactment of this act.

Section 201 of the bill would amend section 2408 of title 38, United States Code, by adding a new subsection (f), which would authorize the Secretary to make grants to any tribal organization to assist the tribal organization in establishing, expanding, or improving under the same manner and under the same conditions as grants to states are made.

Section 202(a) of the bill would amend section 2306(d) of title 38, United States Code, by striking paragraphs (3) and (4).

Section 202(b) of the bill would amend subsection (d) of section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 38 U.S.C. 2306 note) by striking “September 11, 2001” and inserting “November 1, 1990”.

Section 202(c) of the bill would amend section 2306(d) of title 38, United States Code, by permitting a headstone or a marker on the veteran’s grave.

Section 202(d) of the bill would require that a headstone or marker provided under subsection 2306(c) of title 38, United States Code, be placed as close as possible or practicable to the grave.

Section 202(e) of the bill would permit delivery of headstones or markers to a receiving agent for the cemetery.

Section 202(f) of the bill would require that the headstone or marker furnished would be selected by the individual making the request.

Section 202(g) of the bill would make the effective date of these provisions as if enacted in section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 38 U.S.C. 2306 note).

Section 203(a)(1) of the bill would amend subsection (b) of section 2306 of title 38, United States Code, by adding a new subparagraph (C) to paragraph (2), “eligible dependent child of a veteran.”



Section 203(a)(2) of the bill would add at the end of paragraph (4) a new subparagraph (C) defining ‘eligible dependent child’ as a child who (1) is under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution; or (2) became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a full-time course of instruction at an approved educational institution”.

Section 203(b) of the bill would amend subsection (f) of such section by adding “or eligible dependent child” after “surviving spouse” both places it appears.

Section 203(c) of the bill would provide that subsections (a) and (b) apply with respect to individuals dying after the date of enactment of this Act.

Section 301(a) of the bill would require the Secretary of Labor to establish suggested guidelines for the professional qualifications of Disabled Veterans’ Outreach Program Specialists (DVOPS) and Local Veterans’ Employment Representatives (LVERs) in the States.

Section 301(b) of the bill would require states to submit the professional qualifications and training for DVOPS and LVERs as a condition for receipt of a grant or contract from the Veterans’ Employment and Training Service (VETS).

Section 301(c) of the bill would require the Secretary of Labor to establish the guidelines for qualifications for DVOPS and LVERs 180 days after the enactment of this act.

Section 302 of the bill would clarify that part-time employment of DVOPS and LVERs is half-time.

Section 303 of the bill would require states to provide licensing and certification programs for veterans as a condition of a grant or contract from VETS not later than the second program year after the enactment of this Act.

Section 304(a) of the bill, as a condition of a grant or contract from VETS, would require all new DVOPS or LVERs hired after enactment to complete training provided by the National Veterans Training Institute (NVTI). New hires would have three years to complete training. If the Secretary of Labor did not provide an exception to a state, the Secretary may reduce the amount of the grant or contract for the state for non-compliance.

Section 304(b) of the bill would require the states to submit information of employee training at NVTI to VETS.

Section 304(c) of the bill would require all DVOPS and LVERs who are hired or designated after enactment of this Act to receive NVTI training. DVOPS and LVERs with 5 years of service would be exempt from the requirement and those with less than 5 years would be required to complete training within 5 years of enactment.

Section 305 of the bill would make additions to the annual VETS program report which would include: the number of veterans and service-disabled veterans who have requested training; the number and percentage of veterans participating in services; the percentage of people and veterans seeking employment in each state; the number of veterans referred to small business services; the number of veterans and service-disabled veterans who remained employed

after 90 and 180 days; and the average starting wages of veterans and service-disabled veterans and the wage after 180 days.

Section 306(a) of the bill would authorize a 3-year demonstration project to allow the Assistant Secretary of VETS to enter into contracts with non-governmental entities to carry out placement services in high-unemployment areas. The Secretary would be able to use procedures other than competitive to enter into such contracts. The bill would give priority to veteran-owned small businesses in the small business data base maintained by the Secretary of Veterans Affairs. The Secretary would be authorized to use up to \$3,000,000 annually of unobligated funds appropriated for the State grant program.

Section 306(b) of the bill would direct the Comptroller General to report on the demonstration project not later than four years after the date of enactment of this Act.

Section 307 of the bill would allow the Assistant Secretary of VETS to give incentive awards to employment service offices instead of only to eligible employees.

Section 308 of the bill would require the Secretary of Labor to promulgate regulations on the implementation of priority of service for veterans in Department of Labor programs.

Section 309(a) of the bill would establish a new section 4114, "Demonstration project on credentialing and licensure of veterans," in title 38, United States Code. The following section would be added to chapter 41 of title 38, United States Code:

New subsection 4114(a) would require the Assistant Secretary for VETS to establish and carry out a demonstration project on credentialing to facilitate the seamless transition of servicemembers into civilian employment.

New subsection 4114(b) would require the Assistant Secretary for VETS to select not fewer than ten military occupations that require a skill or set of skills that would lead to civilian employment with a high growth or high worker demand industry for the demonstration project. The Assistant Secretary would be required to consult with Federal, State and industry officials to identify requirements for credentials, certifications and licenses that would be required in both the civilian and military occupation when identifying occupations for the demonstration project.

New subsection 4114(c) would require the Assistant Secretary for VETS to cooperate with Federal, State and industry officials to reduce or eliminate barriers veterans may face when seeking to obtain a credential, certification or license within an occupation that the veteran gained experience and training in while serving in the Armed Forces.

New subsection 4114(d) would allow the Assistant Secretary for VETS to establish a task force to assist with the demonstration project.

New subsection 4114(e) would require the Assistant Secretary for VETS to consult with appropriate Federal departments and agencies, State officials, private-sector employers, labor organizations and industry trade associations.

New subsection 4114(f) would allow the Assistant Secretary for VETS to enter into a contract to carry out the demonstration project.

New subsection 4114(g) would require the demonstration project to begin 60 days after date of enactment and end on September 30, 2009.

New subsection 4114(h) would authorize \$1,000,000 for each of the fiscal years 2007 through 2009 of appropriated funds for the demonstration project.

Section 309(b) of the bill would add a representative of the National Governors Association to the Advisory Committee on Veterans Employment, Training, and Employer Outreach of the Department of Labor.

Section 309(c) of the bill would add “4114. Demonstration project of credentialing and licensure of veterans.” to the table of contents at the beginning of chapter 41 of title 38, United States Code.

Section 401 of the bill would exempt Federal, state or local government institutions or institutions primarily supported by funding from a Federal, state or local government entity from the rule that requires a non-accredited education program to have a pro-rata refund policy.

Section 402 of the bill would extend workstudy benefits for jobs at VA cemeteries, state veterans homes, and State Approving Agencies until June 30, 2007.

Section 403 of the bill would require the Secretary to report to Congress 180 days after enactment of this Act on ways to streamline the administrative processes and procedures of the veterans’ education benefits.

Section 404 of the bill would restore lost entitlement to individuals receiving education benefits under chapter 35 of title 38, United States Code who were called to active duty under title 32, United States Code, after September 11, 2001.

#### PERFORMANCE GOALS AND OBJECTIVES

The reported bill would authorize benefits and program enhancements under laws administered by the Secretary of Veterans Affairs and the Secretary of Labor. The Department of Veterans Affairs’ performance goals and objectives are established in annual performance plans and are subject to the Committee’s regular oversight and evaluation by the U.S. Government Accountability Office. VA also publishes a performance and accountability report for each fiscal year. The Committee conducts regular oversight and evaluation of the Department of Veterans Affairs and the Veterans’ Employment and Training Service under the Department of Labor.

#### STATEMENTS OF THE VIEWS OF THE ADMINISTRATION

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##### STATEMENT OF WILLIAM F. TUERK, UNDER SECRETARY FOR MEMORIAL AFFAIRS, DEPARTMENT OF VETERANS AFFAIRS

##### H.R. 601

H.R. 601, the “Native American Veterans Cemetery Act of 2005,” would authorize the Secretary of Veterans Affairs to make grants to Native American tribal organizations to assist them in establishing, expanding, or improving veterans’ cemeteries on trust lands in the same manner and

under the same conditions as grants to states are made under 38 U.S.C. § 2408. We strongly support enactment of this bill.

The cemetery grants program has proven to be an effective way of making the option of veterans cemetery burial available in locations not conveniently served by our national cemeteries. H.R. 601 would create another means of accommodating the burial needs of Native American veterans who wish to be buried in tribal lands.

While we are unsure of the number of grant applications that may be prompted by the bill's enactment, we do not assume its passage would result in the appropriation of additional funds for the cemetery grants program. Hence, we estimate its enactment would be budget neutral.

#### H.R. 5038

Section 2(b) of H.R. 5038, the "Veterans' Memorial Marker Act of 2006," would change the applicability date of VA's current authority to provide a Government headstone or marker for the private cemetery grave of a veteran regardless of whether the grave has been marked at private expense. Under current law, this authority extends only to veterans whose deaths occurred on or after September 11, 2001. This provision of the bill would authorize VA to furnish such markers for the graves of veterans who died on or after November 1, 1990. We support enactment of this provision of the bill.

Under current law, if a veteran died before September 11, 2001, VA is authorized to furnish a Government headstone or marker only if the veteran's grave is unmarked. Although this law has allowed VA to begin to meet the needs of families who view the Government-furnished marker as a means of honoring and publicly recognizing a veteran's military service, VA is now in the difficult position of having to deny a benefit based solely on when a veteran died.

Moreover, the law has never precluded the addition of a privately purchased headstone to a grave after placement of a Government-furnished marker, resulting in double marking. However, when a private marker had been placed in the first instance, a Government marker may not be provided if the veteran died before September 11, 2001. We believe this creates an arbitrary distinction disadvantaging families who promptly obtain a private marker.

From October 18, 1979, until November 1, 1990, with the enactment of the Omnibus Budget and Reconciliation Act of 1990, VA paid a headstone or marker allowance to those families who purchased a private headstone or marker in lieu of a Government headstone or marker. Those families all had the opportunity to benefit from the VA-marker program. This provision of the bill would benefit families of those veterans who died between November 1, 1990, and September 11, 2001. The extension of the authority to cover deaths since November 1, 1990, will assist

VA in providing uniform benefits to veterans, regardless of the date of their death, and will meet public expectations for honoring veterans and their service to the Nation.

We estimate that enactment of this provision of the bill would cost \$113,000 during FY 2007, \$286,000 over the 5-year period FY 2007 through FY 2011, and \$286,000 over the 10-year period FY 2007 through 2016. VA pays for headstones and markers with funds from the Compensation and Pension appropriation account.

VA's authority to provide a Government headstone or marker for the graves of eligible veterans buried in private cemeteries, regardless of whether the grave is already marked with a privately purchased marker, will expire on December 31, 2006. Section 2(a) of this bill would extend VA's authority to furnish the second marker benefit by one year. We support enactment of this provision of the bill. We would also recommend that VA be provided permanent authority to furnish the second marker benefit.

Although the headstone and marker benefit was originally intended to ensure that no veteran's grave remains unmarked, it has evolved into one that recognizes in death the service and sacrifices of those who served our Nation. Since the headstone and marker program's transfer to VA from the Department of the Army in 1973, VA has furnished more than 8.7 million headstones and markers.

The expanded second headstone or marker benefit has not resulted in a significant increase in demand for headstones and markers or appreciable costs for the headstone and marker program. Based on actual data from FY 2005, it is estimated that about 5,000 headstones or markers would be provided in 2007 at an average cost of \$100 per marker as a result of the one-year reauthorization. The fiscal and administrative costs to provide this benefit to families are nominal. The percentage of eligible veterans receiving a Government-furnished marker at private cemeteries has remained fairly constant in the years prior to and during the expanded authority for this benefit.

We would also like to suggest a revision to the statutory language in 38 U.S.C. § 2306, to accommodate the practical needs of a veteran's family in obtaining a Government-furnished marker. VA promulgated 38 CFR § 38.631 to notify the public of the second-marker-benefit authority and to advise how VA would administer the benefit. The regulation states that VA will furnish its full product line of Government markers, which includes all available types of headstones and markers, in fulfilling requests for a "marker" as described in section 2306(d)(1). This clarification ensures that no otherwise eligible veteran is denied a second headstone or marker due to limitations of the size and type of headstone or marker that the grave can accommodate and that families are able to select the headstone or marker type preferred for the previously-marked grave of their loved one in the same manner as for an unmarked grave. Furthermore, the VA regulation clarified that, in cases where it was not feasible to place the marker "on the

grave” as stated in section 2306(d)(1), a Government-furnished marker would be provided for those graves without adequate space for a second marker if the individual making the request certified on the application that the marker will be placed “as close to the grave as possible within the grounds of the private cemetery.” Additionally, the regulation notified the public that VA would deliver a marker to the cemetery where the grave is located or, if necessary, “to a receiving agent for delivery to the cemetery” to accommodate the needs of the veteran’s family. We recommend that Congress ratify VA’s authority in this regard by incorporating into the statute the regulatory language in section 38.631 that discusses delivery, placement, and types of Government markers.

Moreover, in order to eliminate ambiguity regarding the reference to “marker” in the statute, we recommend that Congress revise section 2306 to clarify that the Government is authorized to furnish a “headstone or marker,” as opposed to only a Government “marker,” for privately-marked graves of eligible veterans interred in private cemeteries.

Section 3 of this bill would authorize VA to provide an appropriate memorial headstone or marker to honor the memory of a deceased eligible dependent child of a veteran, when the child’s remains are unavailable for burial. This authority would permit the placement of a memorial headstone or marker for such an individual in a national or state veterans’ cemetery. The bill would define the term “eligible dependent child” as a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution, or a child who became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a course of instruction at an approved educational institution.

VA currently may provide a memorial headstone or marker for the purpose of commemorating a veteran whose remains are unavailable for burial, for placement in a national, state, local, or private cemetery. Section 401 of Public Law 105–368, the “Veterans Programs Enhancement Act of 1998,” expanded eligibility for memorial headstones or markers to include the spouse or surviving spouse of a veteran, where the memorial headstone or marker is to be placed in a national or state veterans’ cemetery.

Under current law, VA may not honor the request for a memorial headstone or marker from a veteran who wishes to memorialize his or her dependent child in a VA national cemetery or state veterans’ cemetery, when the child’s remains are unavailable for burial. Such a child would be eligible for burial in a national or state veterans’ cemetery were his or her remains available. If the spouse and a child of a veteran die at the same time and in the same manner, and the remains of neither is available, it would, in our view, be inequitable to provide a memorial headstone or marker to commemorate the spouse, but not the

child. Section 3 of the draft bill would make eligibility for memorial headstones and markers for dependent children parallel to eligibility of such persons for burial in a national cemetery under 38 U.S.C. § 2402(5). We also note that, although the remarried spouse of a veteran is eligible to be buried in a national cemetery, this bill would not authorize VA to furnish a memorial marker for the remarried spouse of a veteran when the remains are unavailable. In order to provide consistency in eligibility requirements for burial and headstone and marker benefits, we recommend that Congress authorize VA to furnish a memorial marker for the remarried spouse of a veteran when the remains are unavailable.

Also, section 3 of the bill would authorize VA to add a memorial inscription to a veteran's headstone or marker or memorial headstone or marker, if feasible, rather than furnishing a separate headstone or marker for the veteran's dependent child. Such authorization is already provided with respect to a veteran's surviving spouse.

The cost for these additional benefits would be nominal. We do not anticipate receiving many requests for memorial headstones or markers for children. In 2002, VA received two requests for memorial headstones or markers from veterans who wanted to memorialize their children in a VA national cemetery. In 2003, VA received one request. The average cost of a memorial headstone or marker, including transportation, is currently \$92. Memorial headstones or markers are paid for out of the Compensation and Pension appropriation account.

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STATEMENT OF GORDON H. MANSFIELD, DEPUTY SECRETARY OF VETERANS AFFAIRS, DEPARTMENT OF VETERANS AFFAIRS

Good afternoon Mr. Chairman and Members of the Subcommittee: Thank you for inviting me here today to present the Administration's views on (1) H.R. 4791, (2) a draft education benefits bill, and (3) a proposed amendment to H.R. 3082, each of which would affect Department of Veterans Affairs (VA) programs of benefits and services. I understand two other draft bills pertaining to programs administered by the Department of Labor (DOL) also are the subject of today's hearing. VA defers to DOL as to those draft bills.

Before I discuss the bills the Subcommittee is considering today, I would like to note that, as you know, these measures would affect direct spending and receipts. Accordingly, the support VA expresses here for particular bill provisions is contingent on accommodating the provisions within the President's Budget request if the costs are discretionary, and would require acceptable offsetting legislation if the costs are mandatory.

EXCEPTION FOR GOVERNMENT-SUPPORTED INSTITUTIONS ADMINISTERING NONACCREDITED COURSES TO REQUIREMENT OF REFUNDING UNUSED TUITION

Section 3 of the draft bill would exempt Federal, State, or local government institutions, as well as those primarily supported by Federal, State, or local government funds, from the requirement that public or private, profit or non-profit, educational institutions refund the unused portion of tuition, fees, and other charges for nonaccredited courses to an individual if that individual fails to enter the course or withdraws or is discontinued therefrom any time prior to completion of the course.

Under current law, such institutions must comply with the refund policy requirements for nonaccredited courses pursuant to chapter 36, United States Code.

VA cannot support this section since we are aware of no reason why veterans should be disadvantaged by not receiving refunds in appropriate circumstances merely because the institution involved is a governmental entity or supported with government funds.

EXTENSION AND PROVISION OF ADDITIONAL QUALIFYING WORK-STUDY ACTIVITIES FOR VETERANS

Section 5 of the draft bill would extend through December 26, 2011, work-study opportunities for veteran-students and eligible dependents to include: outreach services furnished by State approving agencies to servicemembers and veterans; activities for veteran-students and/or dependents (who have declared an academic major) within the department of an academic discipline that complements and reinforces the program of education pursued by the student; services in connection with provision of domiciliary care and nursing home and hospital care to veterans (including state veterans' homes) under chapter 17 of title 38, United States Code; for those receiving educational assistance under chapter 1606 of title 10, activities relating to the administration of that chapter at Department of Defense (DoD), Coast Guard, or National Guard facilities; and activities relating to the administration of national and state veterans' cemeteries. With regard to this provision, VA has data showing that that these work-study activities have been consistently performed and, therefore, believe that rather than extending the ending date for these work-study opportunities, they should be made permanent.

Under current law, VA makes additional educational assistance allowance payments (so-called work-study allowances) to eligible individuals who agree to perform certain specified services, such as assisting in outreach to service members and veterans regarding available benefits. To participate, the individual must be pursuing a program of rehabilitation, education, or training under chapter 30, 31, 32, 34, or 35 of title 38 or chapter 1606 or 1607 of title 10 United States Code.



Section 5 of the draft bill also would expand the term “work-study activity” for qualifying individuals to include (a) the provision of assistance in identifying employment and training opportunities, as well as related information and services under the Transition Assistance Program (TAP) and the Disabled Transition Assistance Program (DTAP) to members of the Armed Forces being separated from active duty and their spouses (under the supervision of a Disabled Veterans Outreach Program (DVOP) specialist or Local Veterans Employment Representative); and (b) any activity approved by VA in support of a Senior Reserve Officers’ Training Corps program at an educational institution or military installation (under the supervision of an administrator or instructor referred to in section 2111 of title 10).

With regard to work-study students assisting with the TAP and DTAP programs, we agree with the intent of the provision. However, we are concerned, on the one hand, with some of the functions the student would be permitted to perform and, on the other hand, with certain restrictions imposed on their performance of other functions. We don’t believe, for example, that work-study students, in most cases, could provide the employment assistance in identifying employment and training opportunities provided for in this section because such assistance requires specialized training. Accordingly, we would suggest deleting reference to such functions. Further, this section would unnecessarily restrict use of work-study students in support of the TAP and DTAP programs to activities under the supervision of DOL employees. In many cases, however, VA, DoD, or contractor personnel would be appropriate supervisors, as well. Therefore, we would suggest including language that would permit work-study students to assist with the TAP and DTAP programs in ways consistent with their abilities.

Finally, with regard to using work-study students to support Senior ROTC programs at educational institutions and military installations, VA has no objection to this portion of section 5.

If enacted, VA estimates section 5 of this draft bill would cost \$1.6 million during FY 2007 and \$8.3 million over the period FYs 2007–2016.

#### REPORT ON IMPROVEMENT IN ADMINISTRATION OF EDUCATIONAL ASSISTANCE BENEFITS

Section 6 would require VA, within 90 days from the date of enactment of the draft bill, to submit a report to Congress that proposes methods to streamline the processes and procedures of administering education benefits under chapters 30, 31, 32, 34, 35, and 36 of title 38 and chapters 1606 and 1607 of title 10, United States Code.

Given the breadth of the request and the complexity of the programs in chapters 30, 31, 32, 34, 35 and 36 of title 38 and chapters 1606 and 1607, of title 10, United States Code, it is, we believe, unrealistic to expect such a report

to be written in 90 days. We would have no objection to this section if VA were given 6 months in which to submit the required the report.

#### RESTORATION OF LOST ENTITLEMENT FOR INDIVIDUALS WHO HAD TO DISCONTINUE A COURSE OF EDUCATION BECAUSE OF BEING ORDERED TO FULL-TIME NATIONAL GUARD DUTY

Section 7 would make a technical amendment to restore entitlement under the chapter 35 education benefits program that eligible persons lost as a result of being involuntarily ordered to full-time National Guard duty after September 11, 2001, pursuant to 32 U.S.C. § 502(f).

In enacting Public Law 107–103, Congress restored education benefits to National Guard personnel called to active duty under specific sections of title 10, United States Code, and extended their delimiting period for using those benefits. Public Law 108–183 likewise extended the delimiting date for National Guard personnel entitled to chapter 35 benefits who had to discontinue course pursuit as a result of being called to full time National Guard duty under section 502(f) of title 32, United States Code, but inadvertently omitted provisions restoring entitlement for those persons as it had for similarly circumstanced individuals called to active duty under title 10. Section 7 would remedy this oversight. We note that the effective date provision is clear as to the enrollment periods to which this section applies. It is unclear, however, as to whether there is any limit as to how far back in time the title 32 service could occur. VA recommends the effective date be September 11, 2001, to accommodate those ordered to full-time National Guard duty under section 512(f) of title 32 on or after that date.

VA supports section 7 and suggests this provision be extended to MGIB participants under section 3013(f)(2)(A), as well.

If enacted, VA estimates section 7 of this draft bill would cost \$3 thousand during FY 2007 and \$96 thousand over the period FYs 2007–2016.

#### TECHNICAL AMENDMENTS

Section 8 contains technical corrections to the work-study program provisions. VA has no objection to this section.

#### DEPARTMENT OF VETERANS AFFAIRS GOALS FOR PARTICIPATION BY SMALL BUSINESSES OWNED AND CONTROLLED BY VETERANS IN PROCUREMENT CONTRACTS

Section 2 of H.R. 3082 would amend subchapter II of chapter 81 of title 38, United States Code, to add a new section 8127 governing VA contracting goals and preferences for participation by small business concerns owned and controlled by veterans and small business concerns owned and controlled by veterans with service-connected disabilities. Section 3 would, in addition, add a new section

8128 to such subchapter mandating contracting priority for certain small business concerns owned and controlled by veterans when goods and services are being procured pursuant to contracting preferences under title 38 or other law. Current law establishes a 3% government-wide prime and subcontracting goal for small business concerns owned and controlled by veterans with service-connected disabilities.

VA supports the Amendment to H.R. 3082. However, we request that the following changes be made before the bill moves forward:

In Sole Source Contracts, section 8127(c), we recommend revising the language to read that Contracting Officers may award a contract using other than competitive procedures. The amendment reads “shall” which is inconsistent with subparagraphs (b) and (d) of this section.

In Database of Veteran-owned Businesses, section 8127(f), we recommend that subparagraph (4)(A) be revised to read that the Secretary shall verify that veterans own at least 51% of the business. The current language reads “verification that each person listed in the database is a veteran.” The database does not list all persons who own the business.

In Change In Ownership or Control, section 8127(i), we suggest replacing word “terminate” with “end.” For Federal procurement purposes, the word “terminate” has a very specific meaning. When an existing term is completed, the contract ends and is then closed out. We would further recommend revising the section to remove the parenthetical phrase. Currently, it leads the reader to believe that options may be executed after the change of ownership, which we believe is not the intent of the section. The following paragraph establishes that after a change in ownership, one option may be exercised. We understand this may be necessary to accomplish re-procurement.

In Quarterly Reports, section 8127(k), we recommend revising subparagraphs (1) through (3) to read “percentage of contract dollars awarded.” This has very different meaning than “percentage of contracts awarded” and is consistent with reporting of all small business program accomplishments.

We do have some concern about the Quarterly Reports. This amendment will establish a single, consolidated goal which will collect information from both prime and subcontract actions with veterans and a separate consolidated goal for accomplishments with service-disabled veterans. Currently, most prime contractors report their subcontracting actions annually or semi-annually. To obtain quarterly reports from VA’s prime contractors will require contract modifications which will cost the Department as this quarterly reporting will be unique in Federal government. These same contractors will continue to report accomplishments with other small business programs annu-

ally or semi-annually. We believe this will be both costly and confusing for prime contractor personnel. Therefore, we request that the amendment be revised to require annual reporting on these contracting accomplishments, which should not add additional reporting burdens on our prime contractors.

In section 8127(l), Definitions, we have concern with the language where it attempts to define 'small business concern owned and controlled by veterans.' In subparagraph (2)(B), it addresses "the management and daily business operations of which are controlled by one or more veterans or, in the case of a veteran with a service-connected disability that is permanent and severe, the spouse of such veteran." This implies that when a veteran has such a disability, his/her spouse must control daily business operations to be considered. We do not believe that was the intent of the committee. Public Law 106-50, "The Veterans Entrepreneurship and Small Business Development Act of 1999," and implementing regulations define small businesses owned and controlled by service-disabled veterans to include situations where there is a spouse or permanent caregiver who is legally designated in writing to undertake responsibility for managing the well-being of the service disabled veteran. We request the language be amended to reflect that situation.

VA has been a leader in use of the service-disabled veteran-owned small business set-aside tool. However, for many reasons, VA has not recently achieved the Secretary's veteran-owned small business goal. We believe the flexibility in the proposed amendment will give contracting officers the opportunity to "Choose Veterans First." This legislation will offset the negative impression that some veterans have about being left out of the Federal procurement process. The VA-specific set-aside tool will deliver an important message of support to these veteran-owned small businesses.

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TESTIMONY OF CHARLES CICCOLELLA, ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT AND TRAINING,  
U.S. DEPARTMENT OF LABOR

THE VETERANS STATE EMPLOYMENT GRANT IMPROVEMENT  
ACT OF 2006

*Section 2:* Requires the Secretary of Labor to "maintain guidelines for use by States in establishing the professional qualifications required \* \* \* for determining the eligibility for employment, and eligibility for the continued employment" for Disabled Veteran Outreach Program (DVOP) specialists and Local Veterans Employment Representatives (LVER).

We agree with the idea that our Nation's veterans deserve the highest quality of service provided from DVOPs and LVERs that are highly trained and motivated. Federal guidelines would assist the states in establishing profes-

sional qualifications for veterans' employment representatives and still allow the states to retain the overall flexibility to accommodate their unique personnel rules and guidelines. However, there are potential problems that may limit the implementation of these guidelines. They include but are not limited to state personnel and merit staffing requirements and union bargaining agreements.

The states will be required to submit their professional qualifications as a condition of the state grant. We would offer our assistance to the states to assure compliance with this provision and further ensure their qualifications meet the guidelines.

Past experience leads us to believe that guidelines issued at the federal level will vary widely in their implementation with each individual state entity. State incentive awards, as established in the Jobs for Veterans Act (P.L. 107-288), are a recent example of the difficulties inherent in enforcing federally-mandated guidelines within a disparate and decentralized system. Key proponents of the legislative mandate in 2002 assumed that this provision would be embraced by the states and implemented with relative ease. In practice, implementation has proven very difficult. States were forced to contend with legislative, regulatory, policy or union agreements that prohibited or limited the types of incentives that could be provided, thus placing them at odds with federal and state mandates.

A second expected consequence is likely to be an increased workload burden on state staff. Most state personnel systems have similar qualification standards for both DVOP/LVER and comparable positions. Our concern is that federal mandates that add qualifications for DVOP/LVERs might result in higher salaries that cannot be absorbed in the existing budget structure, leading to fewer positions. While the staff hired may well be higher quality with more experience, fewer veterans may receive services. It is our opinion that federally mandated qualifications established outside of the grant-negotiation process, while potentially leading to better-qualified DVOP/LVERs, will decrease the staff to veteran ratio nationwide.

*Section 3:* This section defines DVOP/LVER part-time work provision as meaning, "not less than a half-time basis." The Jobs for Veterans Act provided valuable flexibility as it allowed DVOPs and LVERs to be employed part-time, but it did not define part-time. To reduce uncertainty by the States about the definition, DOL's current grant language defines part-time as half-time. In spite of our guidance, there remains confusion in some states over what "half-time" means, which makes it more difficult to monitor state compliance with the grant provisions. Our concern is that the language in the draft bill would add to the States' confusion. Consequently, DOL recommends that this provision be changed to state that part-time means "half-time," which DOL believes provides adequate flexibility to the States.

*Section 4:* This section will require the states to establish a “local performance information system” within three years following enactment. The states have undergone several reporting system changes in recent years. On July 1, 2005, states again were required to adapt their reporting to the set of common outcome measures used by other training and employment programs in DOL, as well as other agencies. To improve the accuracy and reduce the costs associated with collecting the new measures, DOL is formulating a new reporting system. While DOL agrees with the intent of the provision, to improve services at the local level and aid in the determination of resource allocation, we request that the Committee tie the timeline to the roll-out of the new reporting system rather than to a legislative timeline. In so doing, DOL will keep the Committee apprised of ongoing progress. In the interim, we are exploring ways for states to provide the requested information within their existing reporting systems.

*Section 5:* Establishes “State Licensing and Certification Programs for Veterans.” We believe this provision would have additional budgetary implications and may also have other unanticipated consequences since certification, credentialing, and licensing go well beyond a single state’s jurisdiction. Moreover, not all military training and experiences need formal licensing or certification for veterans to find civilian jobs. The Veterans Certification and Licensure Act of 2006, that we comment on below, establishes the Veterans Advisory Committee on Certification, Credentialing, and Licensing. If established, such an advisory committee could review this issue and make recommendations on the best approach to addressing this at the state and sub-state levels.

*Section 6:* This section requires that newly hired DVOPs and LVERs be trained at the National Veterans Training Institute (NVTI) within three years following the date of their hiring, and extends training requirements to additional existing employees. Currently, NVTI provides such training, funded by DOL, to all DVOPs and LVERs. NVTI was originally established to provide consistent training for these staff. However, not all staff have been able to attend.

This section has additional budgetary implications that we are currently reviewing. We suggest amending this language to allow NVTI to provide training at a site located in the state or through an online distance training arrangement.

*Section 7:* This section establishes a “Demonstration Project on Contracting for Placement of Veterans in High Un-Employment Areas.” This demonstration has additional budgetary implications.

We believe such legislation is unnecessary. One of the underlying principles of the Jobs for Veterans Act was for states to have the flexibility to determine where best to deploy their DVOPs and LVERs. We believe enough flexi-

bility exists for states to focus on their high unemployment areas and areas in greatest need.

The draft also discusses “a locality where the unemployment rate for veterans exceeds the national average unemployment rate.” Veteran’s unemployment data are not available for specific localities.

*Section 8:* This section modifies the incentive awards that were established in the Jobs for Veterans Act. The Department supports this measure as written with the exception that the Assistant Secretary makes the final decision on the incentive awards.

*Section 9:* Requires DOL to publish regulations implementing priority of service. We do not believe regulations are needed. After enactment of the Jobs for Veterans Act, a DOL work group assessed the impact of establishing such regulations and determined that policy guidance is the method that could be adopted most quickly and still have the same impact as a regulatory approach. Policy guidance was subsequently published in September 2003. Nineteen DOL programs are subject to the priority service provisions and these programs change from time to time. As the regulatory process is time consuming, it would be difficult to respond quickly to changes in these programs. With policy guidance, adjustments can be made in a relative short period of time as opposed to the more time-consuming process of establishing or changing regulations.

#### THE VETERANS CERTIFICATION AND LICENSURE ACT OF 2006

We would like to bring to the Committee’s attention the existence of the Department of Veterans Affairs (VA) Professional Certification and License Advisory Committee (PCLAC). DOL believes that creating the proposed advisory committee in DOL is duplicative of efforts already underway at the VA. We recommend that just one committee address the issue of certification and licensure for veterans.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 19, 2006.*

Hon. STEVE BUYER,  
*Chairman, Committee on Veterans’ Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3082, the Veterans Small Business and Memorial Affairs Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

DONALD B. MARRON,  
*Acting Director.*

Enclosure.

*H.R. 3082—Veterans Small Business and Memorial Affairs Act of 2006*

Summary: H.R. 3082 would make changes to several programs for veterans, primarily for veterans' employment and training benefits and veterans' burial benefits. CBO estimates that implementing this bill would cost \$1 million in 2007 and \$22 million over the 2007–2011 period, assuming appropriation of the necessary amounts. In addition, CBO estimates that enacting this legislation would increase direct spending for veterans programs by less than \$500,000 in 2007 and by \$2 million over the 2007–2016 period.

H.R. 3082 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3082 is summarized in the following table. The costs of this legislation fall within budget function 700 (veterans benefits and services).

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF H.R. 3082

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level .....	4	11	4	3	3
Estimated outlays .....	1	6	8	4	3
CHANGES IN DIRECT SPENDING					
Estimated budget authority .....	*	*	*	*	*
Estimated outlays .....	*	*	*	*	*

Note: \* = less than \$500,000.

*Basis of estimate*

For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2007 and that the necessary amounts will be appropriated for each year.

*Spending subject to appropriation*

H.R. 3082 contains provisions that would affect several programs for veterans. CBO estimates that implementing this bill would cost \$1 million in 2007 and almost \$22 million over the 2007–2011 period, assuring appropriation of the necessary amounts (see Table 2).

Veterans' Employment and Training. Title III would establish two demonstration projects for veterans' employment and training. Under section 306, which would be authorized at \$3 million annually for fiscal years 2007 through 2011, a private contractor would be used for job placement services for disabled veterans. Section 309, which would be authorized at \$1 million for each of fiscal



years 2007 through 2009, would focus on providing credentials in high growth or high demand occupations to veterans. Assuming appropriation of the authorized amounts for the demonstration projects, CBO estimates that those provisions would cost \$12 million over the 2007–2011 period.

TABLE 2.—CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 3082

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
Veterans' employment and training:					
Authorization level .....	4	4	4	3	3
Estimated outlays .....	1	3	4	4	3
Cemetery grants to tribal organizations:					
Estimated authorization level .....	0	7	0	0	0
Estimated outlays .....	0	3	4	0	0
Total changes in spending subject to appropriation under H.R. 3082:					
Estimated authorization level .....	4	11	4	3	3
Estimated outlays .....	1	6	8	4	3

In addition, Title III would require the Comptroller General to submit a report on the project dealing with private contracting of job placement services. CBO estimates that report would cost less than \$500,000.

**Cemetery Grants to Tribal Organizations.** Section 201 would allow the Department of Veterans Affairs (VA) to provide grants to tribal organizations to establish, expand, or improve veterans' cemeteries on trust lands owned by the tribal organizations. Under current law, VA can only provide grant money to States for the purposes of establishing, expanding, or improving a veterans' cemetery. VA reports that state cemetery grants range from \$4 million to \$7 million, depending on the size of the project, and that the average time to establish a cemetery from design to opening is 24 months. CBO expects that one such request for a cemetery would be made over the 2007–2011 period, and estimates that implementing section 201 would cost \$7 million over that period, subject to appropriation of the necessary amounts.

**Small Business Preferences.** Section 101 would require VA to establish certain annual goals for contracting with small businesses owned and controlled by veterans, with preference going to those businesses which are owned by veterans with a service-connected disability. The bill also would allow VA to use noncompetitive procedures for awarding contracts to ensure that such annual goals are met.

Section 101 also would require VA to maintain a database of small businesses that are owned and controlled by veterans and to verify the businesses' veteran-owned status. In addition, VA would be required to verify the disability status of those veterans who are listed as having service-connected disabilities. According to VA, it already maintains a database of small businesses owned and controlled by veterans. VA plans to obtain the verifications required under this section by requiring veterans who wish to be included on the list to submit affidavits of both their service-connected status as well as their veteran-owned status. CBO estimates that this provision would have an insignificant effect on federal spending.

*Direct spending*

H.R. 3082 contains provisions that would increase direct spending for veterans burial and readjustment benefits programs. CBO estimates that enacting this bill would increase direct spending for veterans programs by less than \$500,000 in 2007, by \$1 million over the 2007–2011 period, and by \$2 million over the 2007–2016 period.

**Grave Markers.** Section 202 would allow VA to provide a marker or headstone to be placed on a marked grave or other appropriate location in a private cemetery to commemorate a veteran's military service for those veterans who were buried after November 11, 1990. Under current law, veterans buried in a private cemetery are eligible for a second marker or headstone only if they were buried after September 11, 2001.

Section 202 also would indefinitely extend the period during which a marker or headstone could be requested. The authority for VA to provide government headstones or markers to veterans buried in private cemeteries currently expires on December 31, 2006.

Based on VA projections regarding veterans' death rates and the number of veterans who will be buried in private cemeteries, CBO estimates that about 20,000 requests for headstones or markers would be made over the 2007–2016 period. The estimate also reflects information from a VA study that showed that only 27 percent of private cemeteries allow second markers and that less than 5 percent of those eligible would participate in this program. According to VA, a marker or headstone costs about \$92 on average. CBO estimates that this provision would result in an increase in spending for burial benefits of \$1 million over the 2007–2011 period and \$2 million over the 2007–2016 period.

**Other provisions.** The following provisions would have an insignificant impact on direct spending:

- Section 203 would provide a VA marker or headstone to memorialize deceased, dependent children of veterans whose remains are unavailable for burial. Veterans and their spouses whose remains are unavailable for burial are eligible for memorialization with a VA marker or headstone under current law. CBO estimates that under this section about 30 requests would be made over the 10-year period. With an average cost of about \$92 for each marker, CBO estimates that direct spending for burial benefits would increase by less than \$500,000 over the 2007–2016 period.

- Under current law, the VA can compensate certain individuals for specific work-study programs associated with the department, although the authorization for several of the specified programs to hire work-study students would expire in December of 2006. Section 402 would extend the authorization for those expiring programs for another six months, through June 2007. Based on information from VA regarding the numbers of participants in the expiring programs, CBO estimates that this provision would increase direct spending by less than \$500,000 in 2007.

- Section 404 would extend the period of eligibility for survivors' and dependents' education benefits for those dependents who are members of the National Guard and who are involuntarily ordered to full-time duty under section 502(f) of title 32

of the U.S. Code. (This expanded eligibility would be retroactive to September 11, 2001.) Based on information from VA concerning the number of dependents using education benefits who have been called to active duty with the National Guard, CBO estimates that this provision would increase direct spending by less than \$500,000 over the 2007–2016 period.

Intergovernmental and private-sector impact: H.R. 3082 contains no intergovernmental or private-sector mandates, as defined in UMRA, and would impose no costs on state, local, or tribal governments. The bill would add several new requirements for states participating in an employment program for veterans and would make tribal governments eligible for a current program to establish, expand, or improve veteran cemeteries. Any costs to those governments would be incurred as a condition of participating in a voluntary federal program.

Previous CBO estimate: On July 19, 2006, CBO transmitted a cost estimate for S. 2694, the Veterans Small Business and Memorial Affairs Act of 2006, as ordered reported by the Senate Committee on Veterans Affairs on June 22, 2006. Sections 201 and 203 of S. 2694 are similar to sections 201 and 202 of H.R. 3038, and the estimated costs are identical.

Estimate prepared by: Federal costs: Burial Benefits: Dwayne M. Wright; Readjustment Benefits: Mike Waters; Veterans' Employment and Training: Christina Hawley Anthony.

Impact on State, local, and tribal governments: Melissa Merrell; Impact on the private sector: Allison Percy.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### STATEMENT OF FEDERAL MANDATES

The preceding Congressional Budget Office (CBO) cost estimate states that H.R. 3082, as amended, does not contain any intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), Public Law 104–4.

#### STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

### **TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

### **PART II—GENERAL BENEFITS**

\* \* \* \* \*

## CHAPTER 23—BURIAL BENEFITS

\* \* \* \* \*

### § 2306. Headstones, markers, and burial receptacles

(a) \* \* \*

(b)(1) \* \* \*

(2) For purposes of paragraph (1), an eligible individual is any of the following:

(A) \* \* \*

\* \* \* \* \*

(C) *An eligible dependent child of a veteran.*

\* \* \* \* \*

(4) For purposes of this subsection:

(A) \* \* \*

\* \* \* \* \*

(C) *For purposes of this section, the term “eligible dependent child” means a child—*

*(i) who is under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution; or*

*(ii) who is unmarried and became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a course of instruction at an approved educational institution.*

\* \* \* \* \*

(d)(1) The Secretary shall furnish, when requested, an appropriate Government *headstone* or marker at the expense of the United States for the grave of an individual described in paragraph (2) or (5) of subsection (a) who is buried in a private cemetery, notwithstanding that the grave is marked by a headstone or marker furnished at private expense. Such a *headstone* or marker may be furnished only if the individual making the request for the Government *headstone* or marker certifies to the Secretary that the *headstone* or marker will be placed on the grave for which the *headstone* or marker is requested. *If placing the Government headstone or marker on the grave for which it is requested is impossible or impracticable, a headstone or marker may be furnished if the individual making the request for the headstone or marker certifies to the Secretary that the headstone or marker will be placed within the grounds of the cemetery in which the grave for which the headstone or marker is requested and as close as possible or practicable to that grave.*

(2) Any *headstone* or marker furnished under this subsection shall be delivered by the Secretary directly to the cemetery where the grave is located *or to a receiving agent of that cemetery.*

[(3) The authority to furnish a marker under this subsection expires on December 31, 2006.

[(4) Not later than February 1, 2006, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the use of the authority under this subsection. The report shall include the following:

【(A) The rate of use of the benefit under this subsection, shown by fiscal year.

【(B) An assessment as to the extent to which markers furnished under this subsection are being delivered to cemeteries and placed on grave sites consistent with the provisions of this subsection.

【(C) The Secretary's recommendation for extension or repeal of the expiration date specified in paragraph (3).】

(3) *The headstone or marker furnished under this subsection shall be the headstone or marker selected by the individual making the request for the headstone or marker from among all the headstones and markers made available by the Government and certified as acceptable for placement.*

\* \* \* \* \*

(f)(1) When the Secretary has furnished a headstone or marker under subsection (a) for the unmarked grave of an individual, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate headstone or marker under that subsection for the surviving spouse *or eligible dependent child* of such individual.

(2) When the Secretary has furnished a memorial headstone or marker under subsection (b) for purposes of commemorating a veteran or an individual who died in the active military, naval, or air service, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate memorial headstone or marker under that subsection for the surviving spouse *or eligible dependent child* of such individual.

(g)(1) \* \* \*

\* \* \* \* \*

(3) A *headstone or marker* may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.

\* \* \* \* \*

## CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

\* \* \* \* \*

### § 2408. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

(a) \* \* \*

\* \* \* \* \*

(f)(1) *The Secretary may make grants under this subsection to any tribal organization to assist the tribal organization in establishing, expanding, or improving veterans' cemeteries on trust land owned by, or held in trust for, the tribal organization.*

(2) *Grants under this subsection shall be made in the same manner, and under the same conditions, as grants to States are made under the preceding provisions of this section.*

(3) *In this subsection:*

(A) *The term "tribal organization" has the meaning given that term in section 3765(4) of this title.*

(B) The term “trust land” has the meaning given that term in section 3765(1) of this title.

\* \* \* \* \*

### PART III—READJUSTMENT AND RELATED BENEFITS

\* \* \* \* \*

### CHAPTER 34—VETERANS’ EDUCATIONAL ASSISTANCE

\* \* \* \* \*

#### SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

\* \* \* \* \*

#### § 3485. Work-study allowance

(a)(1) \* \* \*

\* \* \* \* \*

(4) For the purposes of this section, the term “qualifying work-study activity” means any of the following:

(A) The outreach services program under chapter 63 of this title as carried out under the supervision of a Department employee or, during the period preceding [December 27, 2006] *June 30, 2007*, outreach services to servicemembers and veterans furnished by employees of a State approving agency.

\* \* \* \* \*

(C) The provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, including, during the period preceding [December 27, 2006] *June 30, 2007*, the provision of such care to veterans in a State home for which payment is made under section 1741 of this title.

\* \* \* \* \*

(E) In the case of an individual who is receiving educational assistance under chapter 1606 *or* 1607 of title 10, an activity relating to the administration of that chapter at Department of Defense, Coast Guard, or National Guard facilities.

(F) During the period preceding [December 27, 2006] *June 30, 2007*, an activity relating to the administration of a national cemetery or a State veterans’ cemetery.

\* \* \* \* \*

(b) Notwithstanding any other provision of law, the Secretary shall, subject to the provisions of subsection (e) of this section, utilize, in connection with the activities specified in subsection (a)(1) of this section, the service of individuals who are pursuing programs of rehabilitation, education, or training under chapter 30, 31, 32, or 34 of this title or [chapter 106] *chapter 1606 or 1607* of title 10, at a rate equal to at least three-quarters of that required of a full-time student. In carrying out this section, the Secretary, wherever feasible, shall give priority to veterans with disabilities rated at 30 percent or more for purposes of chapter 11 of this title. In the event an individual ceases to be at least a three-quarter-time student before completing such agreement, the indi-

vidual may, with the approval of the Secretary, be permitted to complete such agreement.

\* \* \* \* \*

(e)(1) Subject to paragraph (2) of this subsection, the Secretary may, notwithstanding any other provision of law, enter into an agreement with an individual under this section, or a modification of such an agreement, whereby the individual agrees to perform **【services of the kind described in clauses (A) through (E) of subsection (a)(1) of this section】** *a qualifying work-study activity described in subsection (a)(4)* and agrees that the Secretary shall, in lieu of paying the work-study allowance payable for such services, as provided in subsection (a) of this section, deduct the amount of the allowance from the amount which the individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program under this chapter, chapter 30, 31, 32, 35, or 36 of this title, or **【chapter 106】** *chapter 1606 or 1607* of title 10 (other than an indebtedness arising from a refund penalty imposed under section 2135 of such title).

\* \* \* \* \*

## **CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE**

\* \* \* \* \*

### **SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT**

\* \* \* \* \*

#### **§ 3511. Duration of educational assistance**

(a)(1) \* \* \*

\* \* \* \* \*

(2)(A) \* \* \*

(B) The payment of the educational assistance allowance referred to in subparagraph (A) of this paragraph is the payment of such an allowance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

(i) had to discontinue such course pursuit as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10 *or of being involuntarily ordered to full-time National Guard duty under section 502(f) of title 32*; and

\* \* \* \* \*

## **CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS**

\* \* \* \* \*

### **SUBCHAPTER I—STATE APPROVING AGENCIES**

\* \* \* \* \*

**§ 3676. Approval of nonaccredited courses**

(a) \* \* \*

\* \* \* \* \*

(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(1) \* \* \*

\* \* \* \* \*

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time [prior to completion and such policy must provide that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.] *before completion and—*

*(A) in the case of an institution other than (i) a Federal, State, or local Government institution or (ii) an institution described in subparagraph (B), such policy provides that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length; and*

*(B) in the case of an institution that is a nonaccredited public educational institution, the institution has and maintains a refund policy regarding the unused portion of tuition, fees, and other charges that is substantially the same as the refund policy followed by accredited public educational institutions located within the same State as such institution.*

\* \* \* \* \*

**CHAPTER 41—JOB COUNSELING, TRAINING, AND  
PLACEMENT SERVICE FOR VETERANS**

Sec.

4100. Findings.

\* \* \* \* \*

4114. *Demonstration project on credentialing and licensure of veterans.*

\* \* \* \* \*

**§ 4102A. Assistant Secretary of Labor for Veterans' Employment and Training; program functions; Regional Administrators**

(a) \* \* \*

\* \* \* \* \*

(c) CONDITIONS FOR RECEIPT OF FUNDS.—(1) \* \* \*



(2)(A) A State shall submit to the Secretary an application for a grant or contract under subsection (b)(5). The application shall contain the following information:

(i) A plan that describes the manner in which the State shall furnish employment, training, and placement services required under this chapter for the program year, including a description of—

(I) duties assigned by the State to disabled veterans' outreach program specialists and local veterans' employment representatives consistent with the requirements of sections 4103A and 4104 of this title;

(II) the manner in which such specialists and representatives are integrated in the employment service delivery systems in the State; **[and]**

(III) the program of performance incentive awards described in section 4112 of this title in the State for the program year**[.]**;

*(IV) the professional qualifications used by the State for determining the eligibility for employment, and eligibility for continued employment, of State employees who are designated as disabled veterans' outreach program specialists and local veterans' employment representatives under this chapter; and*

*(V) the training required or provided by the State for State employees who are designated as disabled veterans' outreach program specialists and local veterans' employment representatives under this chapter.*

(ii) The veteran population to be served.

(iii) *For each employee of the State who is designated as disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter—*

*(I) the date on which the employee is so designated; and*

*(II) whether the employee has satisfactorily completed training provided by the National Veterans' Employment and Training Services Institute.*

**[(iii)]** *(iv) Such additional information as the Secretary may require to make a determination with respect to awarding a grant or contract to the State.*

(B)(i) \* \* \*

**[(ii)]** The Secretary shall phase in over the three fiscal-year period that begins on October 1, 2003, the manner in which amounts are made available to States under subsection (b)(5) and this subsection, as amended by the Jobs for Veterans Act.**]**

**[(iii)]** *(ii) In carrying out this paragraph, the Secretary may establish minimum funding levels and hold-harmless criteria for States.*

\* \* \* \* \*

(6) Each State shall coordinate employment, training, and placement services furnished to veterans and eligible persons under this chapter with such services furnished with respect to such veterans and persons under the Workforce Investment Act of 1998 (29 U.S.C. 2801 *et seq.*) and the Wagner-Peyser Act (29 U.S.C. 49 *et seq.*).

\* \* \* \* \*

(8) *As a condition of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall require the State to provide a licensing and certification program under which a veteran may receive credit toward a license or certification based on training or experience the veteran acquired while serving in the Armed Forces.*

(9)(A) *As a condition of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall require the State to require each employee hired by the State who is designated as disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter to satisfactorily complete training provided by the National Veterans' Employment and Training Services Institute during the three-year period that begins on the date on which the employee is so designated.*

(B) *For any employee described in subparagraph (A) who does not complete such training during such period, the Secretary may reduce by an appropriate amount the amount made available to the State employing that employee.*

\* \* \* \* \*

(f) **ESTABLISHMENT OF PERFORMANCE STANDARDS AND OUTCOMES MEASURES.—** *PERFORMANCE STANDARDS AND OUTCOMES MEASURES.—*(1) The Assistant Secretary of Labor for Veterans' Employment and Training shall **establish and** implement a comprehensive performance accountability system to measure the performance of employment service delivery systems, including disabled veterans' outreach program specialists and local veterans' employment representatives providing employment, training, and placement services under this chapter in a State to provide accountability of that State to the Secretary for purposes of subsection (c).

\* \* \* \* \*

(h) **DEMONSTRATION PROJECT ON CONTRACTING FOR PLACEMENT OF VETERANS IN HIGH-UNEMPLOYMENT AREAS.—**(1) *From unobligated funds made available for a fiscal year to carry out sections 4103A and 4104 of this title, the Secretary of Labor, acting through the Assistant Secretary of Labor for Veterans' Employment and Training, may enter into a contract with a nongovernmental entity to carry out job placement services for veterans during that fiscal year in a locality where the unemployment rate for veterans exceeds the national average unemployment rate.*

(2) *In entering into a contract under paragraph (1), the Secretary of Labor may use procedures other than competitive procedures.*

(3) *In entering into a contract under paragraph (1), the Secretary of Labor shall give priority to a small business concern owned and controlled by veterans that is listed in any small business database maintained by the Secretary of Veterans Affairs.*

(4) *The total amount obligated under contracts entered into under paragraph (1) for any fiscal year may not exceed \$3,000,000.*

(5) *The authority to enter into a contract under this subsection shall terminate on the date that is five years after the date of the enactment of the Veterans Small Business and Memorial Affairs Act of 2006.*

**§ 4103A. Disabled veterans' outreach program**

(a) \* \* \*

\* \* \* \* \*

(c) *PART-TIME EMPLOYEES.*—A part-time disabled veterans' outreach program specialist shall perform the functions of a disabled veterans' outreach program specialist under this section on a half-time basis.

**§ 4104. Local veterans' employment representatives**

(a) \* \* \*

\* \* \* \* \*

(e) *PART-TIME EMPLOYEES.*—A part-time local veterans' employment representative shall perform the functions of a local veterans' employment representative under this section on a half-time basis.

\* \* \* \* \*

**§ 4107. Administrative controls; annual report**

(a) \* \* \*

\* \* \* \* \*

(c) Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the success during the preceding program year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of eligible veterans and eligible persons. The report shall include—

(1) \* \* \*

\* \* \* \* \*

(3) *the number of veterans, disabled veterans, and special disabled veterans who requested training from the public employment service system;*

(4) *the total number of eligible veterans participating in each program for the provision of employment and training services designed to meet the needs of eligible veterans and eligible persons and the number of such veterans as a percentage of the total number of participants in each such program;*

(5) *for each State, the percentage of persons seeking employment in the State who are veterans;*

(6) *for each State, the number of veterans referred to a small business development center in that State and the number of veterans referred to the National Veterans Business Development Corporation established under section 33 of the Small Business Act (15 U.S.C. 657c);*

(7) *the total number of such veterans and disabled veterans who remain employed for at least 90 days in such jobs;*

(8) *the number of such veterans and disabled veterans who remain employed for at least 180 days in such jobs;*

(9) *the average starting wage or salary paid to such veterans and disabled veterans and, if applicable, the average wage or salary paid to such veterans and disabled veterans as of the 180th day of employment;*

[(3)] (10) any determination made by the Secretary during the preceding fiscal year under section 4106 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination;

[(4)] (11) a report on activities carried out during the preceding program year under section 4212(d) of this title;

[(5)] (12) a report on the operation during the preceding program year of programs for the provision of employment and training services designed to meet the needs of eligible veterans and eligible persons, including an evaluation of the effectiveness of such programs during such program year in meeting the requirements of section 4102A(b) of this title, the efficiency with which services were provided through such programs during such year, and such recommendations for further legislative action relating to veterans' employment and training as the Secretary considers appropriate; and

[(6)] (13) a report on the operation during the preceding program year of the program of performance incentive awards for quality employment services under section 4112 of this title.

\* \* \* \* \*

(d) *The Secretary shall maintain guidelines for use by States in establishing the professional qualifications required under subclause (IV) of section 4102A(c)(2)(A)(i) of this title for determining the eligibility for employment, and eligibility for the continued employment, of State employees who are designated as disabled veterans' outreach program specialists and local veterans' employment representatives under this chapter.*

\* \* \* \* \*

#### **§ 4110. Advisory Committee on Veterans Employment, Training, and Employer Outreach**

(a) \* \* \*

\* \* \* \* \*

(c)(1) The Secretary of Labor shall appoint at least 12, but no more than 15, individuals to serve as members of the advisory committee as follows:

(A) [(Six)] *Seven* individuals, one each from among representatives nominated by each of the following organizations:

(i) \* \* \*

\* \* \* \* \*

(vii) *The National Governors Association.*

\* \* \* \* \*

#### **§ 4112. Performance incentive awards for quality employment, training, and placement services**

(a) **CRITERIA FOR PERFORMANCE INCENTIVE AWARDS.**—(1) For purposes of carrying out a program of performance incentive awards under section 4102A(c)(2)(A)(i)(III) of this title, the Secretary, acting through the Assistant Secretary of Labor for Veterans' Employment and Training, shall establish criteria for performance incentive awards programs to be administered by States to—

(A) \* \* \*

(B) recognize eligible employees *and employment service offices* for excellence in the provision of such services or for having made demonstrable improvements in the provision of such services.

\* \* \* \* \*

(c) **[RELATIONSHIP OF AWARD TO GRANT PROGRAM AND EMPLOYEE COMPENSATION.—]** *ADMINISTRATION AND USE OF AWARDS.*—Performance incentive cash awards under this section—

(1) shall be made from amounts allocated from the grant or contract amount for a State for a program year under section 4102A(c)(7) of this title; **[and]**

(2) **[is]** *in the case of such an award made to an eligible employee, shall be* in addition to the regular pay of the recipient**[.]; and**

(3) *in the case of such an award made to an employment service office, may be used by that employment service office for any purpose.*

\* \* \* \* \*

#### **§4114. Demonstration project on credentialing and licensure of veterans**

(a) *ESTABLISHMENT AND PURPOSE OF DEMONSTRATION PROJECT.*—The Assistant Secretary for Veterans' Employment and Training shall carry out a demonstration project on credentialing in accordance with this section for the purpose of facilitating the seamless transition of members of the Armed Forces from service on active duty to civilian employment.

(b) *CREDENTIALING AND LICENSURE OF VETERANS.*—(1) The Assistant Secretary shall select not less than ten military occupational specialties for purposes of the demonstration project. Each such specialty selected by the Assistant Secretary shall require a skill or set of skills that is required for civilian employment in an industry with high growth or high worker demand.

(2) The Assistant Secretary shall consult with appropriate Federal, State, and industry officials to identify requirements for credentials, certifications, and licenses that require a skill or set of skills required by a military occupational specialty identified under paragraph (1).

(3) The Assistant Secretary shall analyze the requirements identified under paragraph (2) to determine which requirements may be satisfied by the skills, training, or experience acquired by members of the Armed Forces with the military occupational specialties selected under paragraph (1).

(c) *ELIMINATION OF BARRIERS TO CREDENTIALING AND LICENSURE.*—The Assistant Secretary shall cooperate with appropriate Federal, State, and industry officials to reduce or eliminate any barriers to providing a credential, certification, or license to a veteran who acquired any skill, training, or experience while serving as a member of the Armed Forces with a military occupational specialty selected under subsection (b)(1) that satisfies the Federal and State requirements for the credential, certification, or license.

(d) *TASK FORCE.*—The Assistant Secretary may establish a task force of individuals with appropriate expertise to provide assistance to the Assistant Secretary in carrying out this section.

(e) *CONSULTATION.*—In carrying out this section, the Assistant Secretary shall consult with the Secretary of Defense, the Secretary of Veterans Affairs, appropriate Federal and State officials, private-sector employers, labor organizations, and industry trade associations.

(f) *CONTRACT AUTHORITY.*—For purposes of carrying out any part of the demonstration project under this section, the Assistant Secretary may enter into a contract with a public or private entity with appropriate expertise.

(g) *PERIOD OF PROJECT.*—The Assistant Secretary shall carry out the demonstration project under this section during the period beginning on the date that is 60 days after the date of the enactment of this section and ending on September 30, 2009.

(h) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Assistant Secretary to carry out this section \$1,000,000 for each of fiscal years 2007 through 2009.

\* \* \* \* \*

## PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

\* \* \* \* \*

## CHAPTER 81—ACQUISITION AND OPERATION OF HOS- PITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROP- ERTY

### SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

Sec. 8101.	Definitions.	*	*	*	*	*	*
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### SUBCHAPTER II—PROCUREMENT AND SUPPLY

8121.	Revolving supply fund.	*	*	*	*	*	*
8127.	<i>Small business concerns owned and controlled by veterans; Department contracting goals and preferences.</i>	*	*	*	*	*	*
8128.	<i>Contracting priority for small business concerns owned and controlled by veterans.</i>	*	*	*	*	*	*

### SUBCHAPTER II—PROCUREMENT AND SUPPLY

\* \* \* \* \*

### **§8127. *Small business concerns owned and controlled by veterans; Department contracting goals and preferences***

(a) *CONTRACTING GOALS.*—(1) In order to increase contracting opportunities for small business concerns owned and controlled by veterans and small business concerns owned and controlled by veterans with service-connected disabilities, the Secretary shall—

(A) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small busi-

ness concerns owned and controlled by veterans who are not veterans with service-connected disabilities in accordance with paragraph (2); and

(B) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans with service-connected disabilities in accordance with paragraph (3).

(2) The goal for a fiscal year for participation under paragraph (1)(A) shall be determined by the Secretary.

(3) The goal for a fiscal year for participation under paragraph (1)(B) shall be not less than the Government-wide goal for that fiscal year for participation by small business concerns owned and controlled by veterans with service-connected disabilities under section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)).

(4) The annual performance review of the senior official of each Administration of the Department and each Assistant Secretary of the Department with procurement authority shall include an assessment of whether or not that official or Assistant Secretary met the contracting goals established pursuant to this subsection during the year for which the performance review is conducted with respect to contracts awarded during that year for which that official or Assistant Secretary had responsibility. If the official or Assistant Secretary is found not to have met such contracting goals, the official or Assistant Secretary shall not receive an award known as a performance award or an award known as a presidential rank award for that year.

(5) In the case of a subcontract of a Department contract that is counted for purposes of meeting a goal established pursuant to this section, the Secretary shall conduct a review of the contract and subcontract to verify that the subcontract was actually awarded to a business concern that may be counted for purposes of meeting that goal.

(6) The Secretary shall maintain a list based on the reviews conducted under paragraph (5) that contains the name of the contractor associated with each contract reviewed under that paragraph and whether each subcontract awarded by the contractor that is counted for purposes of meeting a goal established pursuant to this section was actually awarded to and performed by a business concern that may be counted for purposes of meeting that goal. The Secretary shall make such list publicly available.

(b) **USE OF NONCOMPETITIVE PROCEDURES FOR CERTAIN SMALL CONTRACTS.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, in entering into a contract with a small business concern owned and controlled by veterans for an amount less than the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), a contracting officer of the Department may use procedures other than competitive procedures.

(c) **SOLE SOURCE CONTRACTS FOR CONTRACTS ABOVE SIMPLIFIED ACQUISITION THRESHOLD.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department may award a contract to a small business concern owned and controlled by veterans using procedures other than competitive procedures if—

(1) such concern is determined to be a responsible source with respect to performance of such contract opportunity;

(2) the anticipated award price of the contract (including options) will exceed the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) but will not exceed \$5,000,000; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

(d) *USE OF RESTRICTED COMPETITION.*—Except as provided in subsections (b) and (c), for purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department shall award contracts on the basis of competition restricted to small business concerns owned and controlled by veterans if the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by veterans will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States.

(e) *ELIGIBILITY OF SMALL BUSINESS CONCERNS.*—A small business concern may be awarded a contract under this section only if the small business concern and the veteran owner of the small business concern are listed in the database of veteran-owned businesses maintained by the Secretary under subsection (f).

(f) *DATABASE OF VETERAN-OWNED BUSINESSES.*—(1) Subject to paragraphs (2) through (6), the Secretary shall maintain a database of small business concerns owned and controlled by veterans and the veteran owners of such business concerns.

(2) To be eligible for inclusion in the database, such a veteran shall submit to the Secretary such information as the Secretary may require with respect to the small business concern or the veteran.

(3) Information maintained in the database shall be submitted on a voluntary basis by such veterans.

(4) In maintaining the database, the Secretary shall carry out at least the following two verification functions:

(A) Verification that each small business concern listed in the database is owned and controlled by veterans.

(B) In the case of a veteran who indicates a service-connected disability, verification of the service-disabled status of such veteran.

(5) The Secretary shall make the database available to all Federal departments and agencies and notify each such department and agency of the availability of the database.

(6) If the Secretary determines that the public dissemination of certain types of information maintained in the database is inappropriate, the Secretary shall take such steps as are necessary to maintain such types of information in a secure and confidential manner.

(g) *ENFORCEMENT PENALTIES FOR MISREPRESENTATION.*—Any small business concern that is determined by the Secretary to have misrepresented the status of that concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans for purposes of this subsection shall be debarred from contracting with the Department for a period of five years.

(h) *TREATMENT OF BUSINESSES AFTER DEATH OF VETERAN-OWNER.*—(1) If the death of a veteran causes a small business con-



cern to be less than 51 percent owned by one or more veterans, the surviving spouse of such veteran who acquires ownership rights in such small business concern shall, for the period described in paragraph (2), be treated as if the surviving spouse were that veteran for the purpose of maintaining the status of the small business concern as a small business concern owned and controlled by veterans.

(2) The period referred to in paragraph (1) is the period beginning on the date on which the veteran dies and ending on the earliest of the following dates:

(A) The date on which the surviving spouse remarries.

(B) The date on which the surviving spouse relinquishes an ownership interest in the small business concern.

(C) The date that is ten years after the date of the veteran's death.

(3) The death of a veteran-owner of a small business concern or a surviving spouse of such a veteran-owner who acquires ownership rights in such concern shall not be cause for termination of a contract awarded under this section that is in effect at the time of death of such owner or surviving spouse.

(i) **CHANGE IN OWNERSHIP OR CONTROL.**—(1) Except as provided in subsection (h), if a small business concern that is awarded a contract under this section undergoes a change in management or control during the period for which the contract is in effect such that it is no longer a small business concern owned and controlled by veterans, the Secretary shall end the contract on the date on which the performance of the term of the contract is complete.

(2) Such a contract that contains an option or options to extend the contract may be extended for a total of not more than 1 year pursuant to any such option.

(j) **PRIORITY FOR CONTRACTING PREFERENCES.**—Preferences for awarding contracts to small business concerns shall be applied in the following order of priority:

(1) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans with service-connected disabilities.

(2) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans that are not covered by subparagraph (A).

(3) Contracts awarded pursuant to—

(A) section 8(a) of the Small Business Act (15 U.S.C. 637(a)); or

(B) section 31 of such Act (15 U.S.C. 657a).

(4) Contracts awarded pursuant to any other small business contracting preference.

(k) **QUARTERLY REPORTS.**—Not later than 60 days after the last day of a fiscal quarter, the Secretary shall submit to Congress a report on small business contracting during that fiscal quarter, which shall include the following:

(1) The percentage of the total amount of all contracts awarded by the Department during that fiscal quarter that were awarded to small business concerns owned and controlled by veterans.

(2) The percentage of the total amount of all such contracts awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

(3) *The percentage of the total amount of all contracts awarded by each Administration of the Department during that fiscal quarter that were awarded to small business concerns owned and controlled by veterans.*

(4) *The percentage of the total amount of all contracts awarded by each such Administration during that fiscal quarter that were awarded to small business concerns owned and controlled by veterans.*

(l) **DEFINITIONS.**—*In this section:*

(1) *The term “small business concern” has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).*

(2) *The term “small business concern owned and controlled by veterans” means a small business concern—*

(A)(i) *not less than 51 percent of which is owned by one or more veterans or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and*

(ii) *the management and daily business operations of which are controlled by one or more veterans; or*

(B) *not less than 51 percent of which is owned by one or more veterans with service-connected disabilities that are permanent and total who are unable to manage the daily business operations of such concern or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more such veterans.*

**§ 8128. Contracting priority for small business concerns owned and controlled by veterans**

(a) **IN GENERAL.**—*In procuring goods and services pursuant to a contracting preference under this title or any other provision of law, the Secretary shall give priority to a small business concern owned and controlled by veterans, if such business concern also meets the requirements of that contracting preference.*

(b) **DEFINITION.**—*The term “small business concern owned and controlled by veterans” means a small business concern that is on the list maintained by the Secretary under section 8127(f) of this title.*

\* \* \* \* \*

**SECTION 502 OF THE VETERANS EDUCATION AND BENEFITS EXPANSION ACT OF 2001**

**SEC. 502. GOVERNMENT MARKERS FOR MARKED GRAVES AT PRIVATE CEMETERIES.**

(a) \* \* \*

\* \* \* \* \*

(d) **EFFECTIVE DATE.**—*The amendments made by subsections (a) and (b) shall apply with respect to markers for the graves of individuals dying on or after [September 11, 2001] November 1, 1990.*